

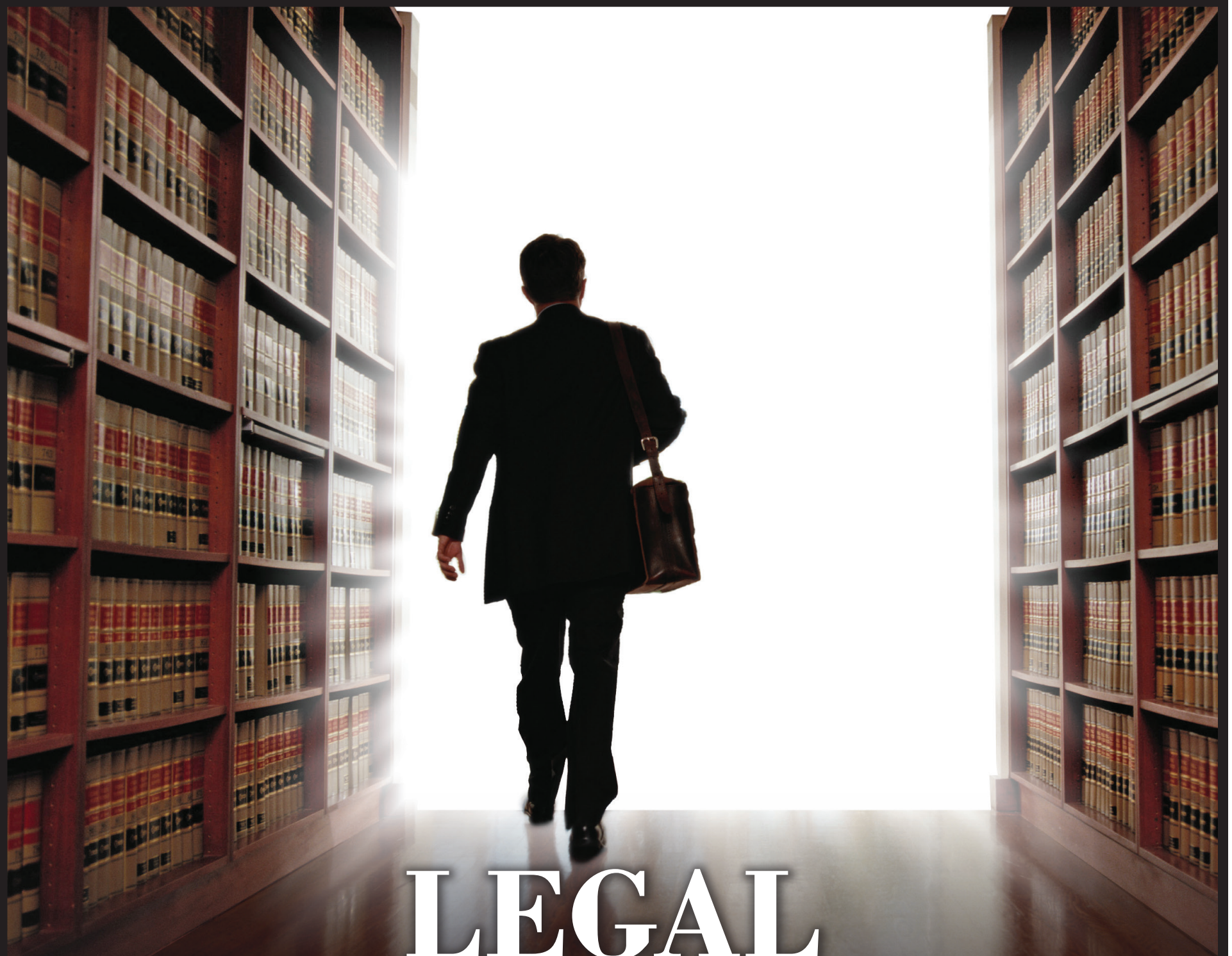
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LEGAL MANEUVERS

Change is rocking a profession steeped in tradition,
and clients (and their pocketbooks) are coming out winners.

BY BILL HETHCOCK • PAGE 2

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MONEY TALKS

Consolidation continues to
sweep community banks.

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OFF THE COURT

Lots of people dream of a career in the
NBA and wind up in business. For Micheal
Williams, it was the other way around.

FACETIME, PAGE 24

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LEGAL MANEUVERS

Relentless price pressure is shaking up firms of all sizes

BY BILL HETHCOCK | STAFF WRITER

Hourly rates for top lawyers have been rising for years, but the increases have pushed the industry to a tipping point, causing dramatic changes among some of the biggest players.

Law firm mergers and acquisitions are on pace to set a record nationwide. Legal consultancy Altman Weil counted 39 law firm mergers during the first six months of 2013, including U.K.-based Norton Rose LLP's merger with Fulbright & Jaworski LLP, which had a 140-attorney Dallas office, creating Norton Rose Fulbright with more than 3,800 attorneys worldwide.

At the same time, many attorneys are deciding to leave the large firms where they've flourished and start anew at smaller, boutique shops.

The result is a wave of consolidation in the legal industry, more competition and more choices on pricing and fee structure for companies in the market for legal services.

"The pace of change in business has accelerated at enormous speeds," said Ted Anderson, managing director of Kilgore & Kilgore, a Dallas-based boutique law firm that focuses on employment and business law, intellectual property and securities fraud. "The legal industry, if it is going to continue to be a viable industry and helpful to the business community, is going to have to find ways to adjust its billing and fee model to accommodate changes going on in the economy."

The changes are similar to what's already happened to the accounting industry. Consolidation among the largest firms took accounting from "the Big 8" firms in the early- and mid-1980s to the Big 6 in 1989 and the Big 4 today. At the same time, accounting has seen an explosion of work because of the Sarbanes-Oxley Act of 2002 and other regulatory and nonregulatory factors.

The results for accounting firm clients have been mixed, said Jim Berry, partner in the Dallas office of Deloitte.

"The reality is, to serve large multinationals and larger companies, you have to have a larger footprint," Berry said. "You have to have that scale to reach across the globe. Because of that footprint, those firms (the Big 4) are able to offer a much broader array of services."

The downside of consolidation for law firm clients can be higher



ANDERSON



CHADWICK



McMANEMIN

hourly rates, said Tom Clay, principal with Altman Weil.

"In some consolidations, companies could see an attempt to raise billing rates," he said. "The client market really reacts badly to that."

Clay predicts the wave of consolidation reshaping the legal industry will continue, but he doesn't expect it to be a tsunami.

"We're not going to get to a Big 4 of law firms, I don't think," he said.

Is bigger better?

One of the most talked about changes among North Texas firms recently is the shake-up at Patton Boggs. The Washington, D.C.-based firm has long been a powerhouse in Dallas, and the city housed Patton Boggs' second-

largest office, with 90 lawyers as recently as last year. Firmwide, Patton Boggs had about 485 lawyers at the end of 2012.

It had weathered a difficult year in 2012, with profit per equity partner dropping 5 percent to \$735,000 firmwide, according to the Am Law 100 Index. Typical profit per equity partner for a firm of Patton Boggs' size would vary widely, from about \$500,000 to "several million," Clay said. In February, Patton Boggs laid off 65 lawyers and staff members, including a handful in Dallas. Then, in July, 24 of the firm's lawyers left to launch a Dallas office for Miami-based Holland & Knight.

"That was an unusually large group (to spin off of Patton Boggs)," said attorney recruiter Howard Bloom of the Howard

C. Bloom Co. in Plano. "Usually what you see is either mergers (of law firms) or smaller groups that join another firm or form their own."

Jim Chadwick, executive partner of the new Holland & Knight office in Dallas, said being affiliated with Holland & Knight is a better fit for the lawyers who made the move and for their clients.

"That's what drove all of this," he said.

Chadwick said Holland & Knight has offices in cities including Atlanta, Boston, Chicago, Los Angeles and San Francisco where Patton Boggs does not.

"When I look at the places where we do business and our clients do business and our clients are looking to grow their businesses, Holland and Knight

is already strong in each of those markets," Chadwick said.

On the heels of the Holland & Knight raid of Patton Boggs talent, Dallas-based Thompson & Knight LLP lured four more attorneys from the firm in August. The move expanded T&K's Trial Practice Group, bringing in attorneys who specialize in real estate, construction, energy, banking, finance and securities.

Patrick F. McManemin, who joined Thompson & Knight as a partner, said he made the move because of the opportunity at Thompson & Knight, not because of problems at Patton Boggs.

"This is an opportunity for us in parts of the country where we've practiced for some time, but haven't had an office," McManemin said.

The departure of the lawyers from Patton Boggs' Dallas office won't affect its ability to meet its clients' needs, said Michael Forshey, managing partner of the office.

The Dallas office will look for opportunities to add lawyers but isn't in a hurry to do so, Forshey said. Quality is more important than headcount, he said.

"I'm not sure that bigger is always better in any business, let alone the legal business," Forshey said. "That's not to say we won't look for opportunities. People in the legal community are fairly mobile these days. As opportunities present themselves, we will look at those, and if they are a good fit for us both from a business standpoint and from a firm culture standpoint, we will seek to take advantage of it."

More cuts

Patton Boggs wasn't alone in making cuts. New York-based Weil, Gotshal & Manges, the nation's 17th-largest firm with more than 1,150 lawyers and the 19th largest in North Texas in early 2012 with 79 lawyers here, laid off 60 associates and 110 staff members and cut pay for 30 partners in June, according to a memo sent to employees. The firm did not break down the number of layoffs in Dallas.

Later that month, Washington, D.C.-based Jones Day slashed its Ohio-based operations staff, laying off 45 information technology workers there and 20 more at other locations. The firm, with more than 2,300 lawyers, is one of the five largest in the United States and fourth largest in North Texas, with more than 150 attorneys here.

In August, Boston-based Day Pitney LLP, which has about 300 attorneys in the Northeastern United States, announced that the firm is firing 30 employees, including a group of attorneys.

One of the reasons cuts at large firms are necessary is that business clients found ways to cut legal costs during the recession and continue to be tight-fisted with their legal expenditures, Anderson said. That means big firms are competing for less business. Long court battles are becoming less common as well, he said.

“You simply cannot continue to have litigation that goes on and on forever before decisions are made,” he said. “Because by the time the decision is made, the business around which the legal issue arose has changed.”

New ways to bill

Law firms of all sizes are trading in the mahogany furniture, leather chairs and oversized offices for shared workspaces and the lawyer-with-a-laptop model to control overhead, Anderson said. Alternate fee structures also are becoming commonplace.

“Clients are looking for more certainty in their legal spend,” said Steve Good, CEO of Gardere Wynne Sewell LLP, North Texas’ fifth largest law firm, with about 140 attorneys. The firm specializes in corporate law, bankruptcy, employee benefits and intellectual property.

Fixed fees have a set amount a client pays for a specific matter, such as the acquisition of another business or handling of a particular piece of litigation, Clay said. They’re the most common alternative to hourly fees.

“The law firm takes the risk that they can handle it efficiently and make a good margin,” he said. “The client knows exactly what it’s going to cost, so it’s got predictability.”

Contingency fees allow the law firm to get paid if they prevail on a disputed matter, and partial contingency fees guarantee some hourly fees and additional pay if the law firm prevails, Clay said.

“Those are the major (fee structures), but there are all sorts of variations,” he said.

Focusing on clients’ goals is the key to structuring fees that are fair and satisfy clients, said Tom Helfand, shareholder and chair of the business and transaction department at Winstead PC in Dallas. Helfand chaired a Winstead committee that put policies in place for how to go about setting alternative fees.

“If the client is mostly interested in budget — making sure that they have control over the fees — then you might be dealing with a fixed fee or a retainer type of arrangement,” he said.

“On the other hand, if a client is most concerned about partnering — you share the pain if something goes bad and you share the spoils if something goes good — you might have success fees or discounts if the deal goes bad.”

Clients appreciate being told

HOOKING UP – *Mergers/acquisitions*

FULBRIGHT & JAWORSKI/NORTON ROSE

U.K.-based Norton Rose LLP and Houston-based Fulbright & Jaworski LLP, which had a 140-attorney Dallas office, merged in June to create Norton Rose Fulbright, a global law firm with more than 3,800 attorneys in more than 50 cities across the United States, Europe, Canada, Latin America, Asia, Australia, Africa, the Middle East and Central Asia.

SNR DENTON/SALANS/FMC

Early this year, Chicago- and London-based SNR Denton, with a presence in North Texas, combined with European-based Salans and Canada’s FMC to create a new international law firm with more than 2,500 lawyers and legal professionals in 79 locations in 52 countries. The merged operations took effect in March and the combined firm uses the name Dentons.

POWELL GOLDSTEIN/BRYAN CAVE

Atlanta-based Powell Goldstein LLP, a law firm with an office and a significant presence in Dallas, merged in 2009 with international law firm Bryan Cave LLP. The firm formed by the merger has about 1,200 attorneys and staff members in 25 offices worldwide and operates under the name Bryan Cave LLP.

K&L GATES/HUGHES & LUCE

In January 2008, Pittsburgh-based international law firm K&L Gates combined with Hughes & Luce, a Dallas firm of 150 attorneys with offices in Austin, Dallas and Fort Worth. Later that year, K&L Gates combined with Kennedy Covington Lobdell & Hickman LLP, a North Carolina-based firm of 200 attorneys, and in March 2009, K&L Gates merged with Chicago-based Bell, with about 215 attorneys. In January, K&L Gates combined with Australian firm Middletons, adding about 300 lawyers, bringing the firm to a total of more than 2,000 lawyers in 46 offices.

BREAKING AWAY

■ Miami-based Holland & Knight nabbed 24 lawyers, including 12 partners, from the Dallas office of Washington D.C.-based Patton Boggs to open an office in Dallas in July. Holland & Knight has about 1,000 lawyers in 18 U.S. offices as well as Abu Dhabi, Beijing, Bogotá and Mexico City.

■ New Orleans-based Phelps Dunbar LLP in July opened its first office in North Texas with six attorneys hired away from Fort Worth-based Cantey Hanger LLP. The office in Southlake is Phelps Dunbar’s second location in Texas after Houston and the 11th office overall for the approximately 270-attorney regional law firm.

■ Dallas-based Thompson & Knight LLP lured four attorneys from Patton Boggs LLP in August.

about fee alternatives even if they ultimately opt for traditional hourly billing, Helfand said.

“To create a good alternative fee structure, you have to have a conversation,” he said. “That conversation revolves around exactly what is the project, what are the goals, how are they going to define success, and what’s going to be involved in the project. What’s the scope of it? Only then can you determine what is the right structure of an alternative fee and what are the dollar amounts.”

The boutique route

While large firms adjust to the changing landscape, some of their lawyers opt to leave for smaller, more specialized firms. That was the case for Clayton Bailey and Alex Brauer, formerly of megafirm Baker & McKenzie’s Dallas office. In July, they formed Bailey Brauer PLLC, where they focus on complex commercial litigation, appeals and agribusiness issues.

The attorneys wanted more flexibility and fewer conflicts, and they feel like they can provide the same service and quality at a much more competitive price, Bailey said. Bailey and Rauer declined to discuss their hourly rate in detail. Hourly rates for lawyers at a huge, high-stature firm such as Baker & McKenzie range from more than

\$800 an hour for highly experienced lawyers to \$250 an hour or less for those with less experience, Clay said.

Bailey and Brauer worked together to win an opinion from the 5th U.S. Circuit Court of Appeals that cemented the law protecting the agribusiness industry from frivolous claims filed under the Packers and Stockyards Act.

Forming their own firm gives them flexibility to enter into alternative billing arrangements that can help clients control their costs, Bailey said.

“We can bring big firm experience, know-how and quality at more flexible and affordable rates to our clients,” he said.

Joel Reese and Brad Gordon, partners at Dallas commercial trial law firm Reese Gordon Marketos, made a similar move in 2011 when they left their partnership positions at Winstead PC, one of the 10 largest commercial law firms in Dallas. RGM partner Pete Marketos had been a partner at Haynes and Boone LLP, North Texas’ largest firm.

Starting RGM, which now has six lawyers, has simplified their practice and their lives, and makes it easier to practice law, Reese said.

“We thought we could have a small firm that handled nothing but big, complex litigation, and that’s all we would do,” he said.

“We do one thing and one thing only. All we’re going to do now, and forever, is practice complex commercial litigation.”

The decision seems to be paying off in the courtroom.

The firm, less than three years old, won one of the nation’s largest verdicts so far this year, with an \$136 million verdict in February in a fraud suit against Mercedes-Benz. RGM also got a summary judgment affirmed by the 5th U.S. Circuit Court of Appeals in a fraud and breach-of-contract suit filed against the firm’s clients by T. Boone Pickens and Cowboy Athletics Inc., a non-profit benefiting Oklahoma State University athletics.

Dallas-based Winstead, a regional firm with about 130 lawyers in North Texas, has hired many good lawyers from national and international firms where the attorneys’ hourly rates had grown higher than their clients could afford, Helfand said.

“We’ve hired a lot of people laterally from other big firms with very good clients who say, ‘I’m being told by my New York office or my Washington office that I’ve got to have higher rates, and my clients can’t stand those higher rates,’” Helfand said. “We’ve hired very good lawyers on that basis.”

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GOOD



BRAUER



BAILEY



REESE



GORDON



HELFAND