THIS TIME IT'S **PERSONAL**

After staying away in 2010, firms have returned to the lateral market at boom-time levels. But this hiring binge is driven by desperation, not a thriving economy.

By
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IF 2010 WAS A YEAR FOR STAYING PUT, 2011 was the year that partners jumped back into the lateral market with full force. In the 12-month period ending September 30, 2011, 2,460 partners left or joined Am Law 200 firms. That was a 22 percent increase from 2010, when only 2,014 changed jobs—the lowest number of partner moves since 2000. This year's figure was consistent with the annual average of 2,458 partner moves from 2005 to 2009 and was higher than the number of lateral moves in 2007, when 2,423 partners moved.

The dissolution of Howrey in March contributed to the increased activity, adding 208 partners to 2011's total. But the 2,252 non-Howrey moves this year still represent a 12 percent increase from 2010, and was higher than 2006, when 2,153 partners switched firms.

While 2010's lateral slowdown was due, in part, to economic uncertainty ["Staying Put," February 2011], this year's uptick in lateral activity doesn't mean that the boom years are back. Both transactions work and litigation lagged in 2011, consultants note.

So what accounts for the increase in lateral hiring? In many cases, it's cherry-picking. In a stagnant economy, firms seek to expand market share and increase profits by poaching top performers from competitors. Cross-border transactions lawyers, especially Latin America and China specialists, were in demand. "Some firms have really separated themselves from the rest and done extremely well," says Gretta Rusanow, senior client adviser of the law firm group at Citi Private Bank. "Those firms have been able to buy talent and build up practice areas where they weren't as strong, or enter locations where they might not have a presence." Altman Weil consultant Ward Bower puts it bluntly: "The gap between haves and have-nots is widening."

After Howrey, Hunton & Williams had the largest net loss in partners with 28, as 34 partners (about 9 percent of the firm's overall partnership) left, according to our data, while six joined. McDermott Will & Emery was next, with a net loss of 27 partners—36 partners (about 7 percent of the overall partnership) departed, while only nine arrived, according to our data. Other firms with sizable losses included K&L Gates, with a net loss of 20 partners, and O'Melveny & Myers, with a net loss of 18.

Heads of all four firms declined or did not respond to interview requests. In a prepared statement, McDermott cochairs Peter Sacripanti and Jeffrey Stone said that "there is a careful and deliberate growth initiative under way at McDermott. We are increasingly focused on strategic markets and practice areas that differentiate us." They cited the firm's China, life sciences, government strategies, and private client practices as growth areas. O'Melveny, meanwhile, has lost more than 100 partners since 2007 ["A Fresh Start," December 2011]. Incoming chairman Bradley Butwin said last year that the firm views the departures as an opportunity and that there is a greater sense of unity at O'Melveny now because the remaining partners have a "high degree of confidence" in the firm.

Money isn't the sole factor motivating these departures, say heads of firms that took on large numbers of laterals last year—global reach was also important. "The money has to be comparable, though," says DLA Piper global cochairman Frank Burch. "After all, no one's going to move and take a 10–20 percent haircut." DLA topped our arrivals chart for the second consecutive year, with 87 new partners. In fact, Burch says that his firm "did a lot of hiring from firms that reported higher profits per partner" than DLA Piper, but those lawyers were drawn in by DLA's "different business model and market coverage." During our reporting period, DLA Piper hired from Paul Hastings; Skadden, Arps, Slate, Meagher & Flom; White & Case; and Morgan, Lewis & Bockius—all firms that posted higher average profits per partner than DLA in the most recent Am Law 100 rankings, which reflect 2010 results ["Profits Show Healthy Increase," May 2011].

Like Burch, SNR Denton chairman Elliott Portnoy and Baker & McKenzie North American managing partner Philip Suse say that the current crop of laterals is often strongly motivated by a firm's global footprint. (SNR tied with Greenberg Traurig for fourth place on our list of most acquisitive firms, and Baker tied with Winston & Strawn for sixth place.) "We find that many partners simply believe they must be part of a global platform, even if their existing client needs are purely domestic," says Portnoy. "There is a perception that being part of a global firm will allow them, in time, to grow their practice and be compensated differently than in a regular firm," he says. SNR Denton was formed in September 2010 through the combination of Chicago's Sonnenschein Nath & Rosenthal and London's Denton Wilde Sapte, and Portnoy says that the combined firm is "bringing in a dramatically stronger caliber of candidates because of our new global reach." As an example, he cites the firm's acquisition of Jonathan Cahn, a corporate partner from Baker & McKenzie.

Cahn was just one example of global firms raiding one another for talent. Baker, for instance, acquired antitrust partner Katherine Funk and finance partner Ricardo Martinez from SNR Denton. "Clients and laterals are attracted to us because of the depth and breadth of our global network," says Suse, whose firm lost ten partners and hired 36 laterals. In 2011 Baker concentrated on bolstering its tax, antitrust, and compliance practices, and hired eight partners in Brazil, Canada, and China, Suse says. As examples of the firm's lateral hiring strategy at work, Suse singled out two New York–based finance partners with significant Latin America

+ TOP-GAINING FIRMS – *Lateral Partner Hires*

After a soft 2010, the lateral market picked up steam in 2011. Here is where the top-gaining firms got their new hires. If laterals arrived in a group of five or more, we named the firm they left.

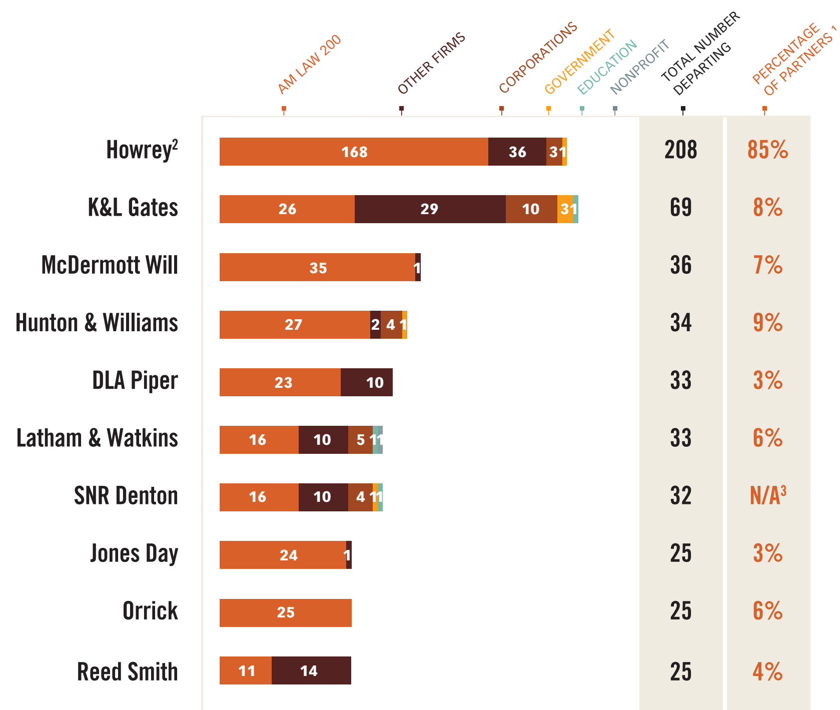
practices—Lloyd Winans, who came from Alston & Bird, and Martinez. “We were trying to find ways to tie our money center, which is New York City, to various emerging markets,” Suse says. “They are good examples of that.”

While DLA Piper and Sonnenschein (now SNR Denton) have long been fixtures on both our most-arrivals and most-departures rankings, Dewey & LeBoeuf has usually had less activity. This year, however, the firm went on a hiring spree, adding 33 partners, which was more than all but eight firms, while losing seven. Dewey brought in several high-profile partners from Howrey, including intellectual property litigator and former Howrey vice-chair Henry Bunsow and antitrust litigator Roxann Henry, as well as O’Melveny’s former M&A cochair, Ilan Nissan. Dewey chair Steven Davis says that the firm resisted making mass lateral hires for three years after it was created in October 2007 through the merger of Dewey Ballantine and LeBoeuf, Lamb, Greene & MacRae, choosing to focus on integration first. “Now we’re moving into a new part of the cycle for the firm where we’re concentrating on building up key practice areas and offices and meeting strategic needs for our clients,” he says.

Dewey raided Milbank, Tweed, Hadley & McCloy for Michael Fitzgerald, Joy Gallup, and Taisa Markus, three partners with Latin America practices. Domestically, Dewey built up its energy practice, adding two Houston-based energy partners from Baker & McKenzie. “When we created the firm, we said that our fundamental strategy was to be in the category of elite global law firms,” Davis says. “We wanted to be the firm that targeted complicated and challenging work from great clients and was capable of working throughout the globe.” He says that close to 40 percent of his firm’s lawyers are outside the United States. Dewey has 17 offices abroad and hopes to get a license for a São Paulo office soon, Davis adds.

FIRMS WITH THE BIGGEST LOSSES – *Partner Defections*

These firms took the biggest hits. We list firms by the number of moves, and note the percentage of the partnership the departures represent.



1. Percentages are based on the number of average FTE partners on the most recent Am Law 200 reports.
2. Howrey dissolved in March 2011.
3. The total number of partners at SNR Denton is unavailable because the September 2010 merger of Sonnenschein and Denton Wilde Sapte occurred after the NLJ 250’s survey period.

The global behemoths weren’t alone on our most-arrivals chart. Some Second Hundred firms spent 2011 acquiring talent, often from Am Law 100 firms [“A Rebuilding Year,” June 2011]. Polsinelli Shughart (which tied for ninth on our most-arrivals list), Ogletree, Deakins, Nash, Smoak & Stewart (which was number 14), and Barnes & Thornburg (number 17) were among the top gainers this year. Labor and employment shop Ogletree, for instance, netted a gain of 19 partners, including recruits from Haynes and Boone; Morgan, Lewis & Bockius; Morrison & Forester; and Reed Smith. “General practice firms have required labor and employment lawyers, as a rule, to charge rates that are probably not realistic,” says Ogletree managing partner Kim Ebert. “Large purchasers of labor and employment services are doing large arrangements with national [speciality] firms that require a footprint and focus that general practice firms don’t have.”

Polsinelli netted 21 partners, including six partners from Faegre & Benson and four partners from K&L Gates, as it continues its focus on health care, energy, and life sciences. “All of those practices spin off legal work to other specialists,” says chairman Russell Welch, who oversaw the opening of offices in Phoenix and Los Angeles in 2011. “Health care, for instance, has a strong regulatory foundation, and touches on real estate, labor and employment, litigation, M&A, and ERISA.” Barnes & Thornburg, meanwhile, made a net gain of 19 partners, including six laterals from Akin Gump Strauss Hauer & Feld.

However, the largest source of partners was Howrey. Jones Day took 21, while Winston & Strawn absorbed 19, including former chairman Robert Ruyak. Eight ex–Howrey partners went to Dewey, while antitrust star Sean Boland decamped with eight other partners to Baker Botts, and antitrust litigator Robert Abrams led a team of nine partners to Baker & Hostetler [see “Starshine,” page 60]. IP litigator Korula “Sunny” Cherian joined Hogan Lovells with four other partners.

With no sharp economic rebound in sight and competition among law firms remaining intense, the talent wars of 2011 could turn bloody. Jerome Kowalski, a law firm consultant and principal at Kowalski & Associates, says that 2012 could be one of the strongest years for lateral movement in recent memory. “Firms lose a bunch of partners, revenue dips, and the managing partner says, ‘We have to tighten our belts,’ and partners with portable business leave. That’s how firms unwind.” In other words, hold on to your hats—and your prized partners.

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Methodology The Lateral Report covers partner moves in and out of Am Law 200 firms between October 1, 2010, and September 30, 2011. We tracked 2,460 moves during this period. We count firm-to-firm moves if a lawyer was a partner in the former firm and is a partner at the new firm. We also count moves if a partner left for a position in business, government, or education, or joined a firm as a partner from one of those fields. Lateral moves are counted when one firm acquires another, but not when two firms merge and combine names.

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