



Barclay Damon

Am Law 50 Firms Fighting Hard to Regain Lost Market Share

BY SUSAN DESANTIS

Q: How big is your firm, where is it located, and what are its primary areas of practice and focus?

A: We are a Northeast regional law firm of 275 attorneys. The firm's largest practices are in the areas of M&A, energy, intellectual property and health care. We have 11 offices in the New England and Mid-Atlantic corridor, including a dozen lawyers in Boston and a half-dozen in New York City. But our core platform is in Upstate New York, with 30 to 100 lawyers each in Albany, Buffalo, Rochester and Syracuse. We work in industry teams and across practice areas to provide targeted solutions. Our clients see nimble, outward-facing teams capable of delivering services anywhere, not constrained by office location.

Q: Please explain your firm's governance structure and compensation model.

A: We are governed by a six-member management committee consisting of four managing directors elected from each of the Upstate offices and a managing partner and deputy managing partner, who are elected firmwide. Our general counsel (a long-standing

firm leader with a great business mind) and our executive director (a former NYC investment banker who acts as our COO) participate in all strategic decisions. The professional development of our lawyers and our practice areas are managed by seven practice group leaders appointed by me. The PGLs are empowered to lead and manage the business units they oversee and are selected based on leadership potential rather than old-school criteria of seniority or the size of their books. Even with this leadership structure, our culture operates in a flat management environment as teams are empowered to develop the best solutions for our clients, with minimal hierarchy. Our compensation system for attorneys and staff includes a greater merit component than other firms, rewarding quality work, exceptional client service and results rather than tenure or lockstep.

Q: What do you view as the two biggest opportunities for your firm, and what are the two biggest threats?

A: Opportunities include continuing to use our lower-cost model to gain market share from megafirms that



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JOHN LANGAN, managing partner of Barclay Damon, told the New York Law Journal how the firm secured multistate energy pipeline projects, nine-figure patent litigation cases and big M&A transactions that would have likely gone to larger firms prior to the Recession. But, he says, Am Law 50 firms are fighting hard to get back that lost market share by using their large size and capital reserves to invest in AI, process management and predictive analytics. Barclay Damon, for its part, is fighting to retain that business and gain market share by using its lower cost model to offer better rates, Langan said. The conversation was part of a series on midsize law firms.

cannot handle work in certain practices, transactions and litigations because of rate pressures and economies of scale. With space as low as \$19 per square foot, we have built a modern law firm that aggressively leverages technology and offers a lower cost, more efficient delivery system (170 admin and staff support 275 lawyers). A second opportunity is to continue offering lateral groups, smaller firms and major-market-trained lawyers a welcome home that has decades of experience successfully integrating new lawyers.

As for threats, alternative legal-service providers continue to cut into work traditionally performed by law firms and particularly a firm's associate workforce. Rather than hide from these challenges, we are embracing them by spending a lot of time evaluating alternative legal-service providers and the impact on matter staffing and service offerings for the benefit of our clients. A second and related issue is the onset of artificial intelligence and other technologies providing legal services for segments of work traditionally offered by law firms. The solution is the same—we are trying to embrace, not ignore, these changes.

Q: After the recession hit, the prevailing theory was that midsize firms would start to see more work come their way from large clients who could no longer justify paying Big Law rates. What has been your experience?

A: The prevailing theory has been our experience with one caveat. After 2008, in-house counsel definitely expanded their choice-of-counsel decisions, and midsize/regional firms like ours have benefited. We are handling larger M&A transactions, multistate energy pipeline projects and nine-figure patent litigation cases that might never have been assigned to us prior to the Great Recession. The caveat is that Am Law 50 firms are fighting hard for lost

market share by using their large size and capital reserves to invest in AI, process management and predictive analytics. We recognize the need for firms like ours to embrace technology, figure out our place in a rapidly evolving market, and explore ways to use our smaller size and lower cost structure to our advantage.

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Q: Are your clients pushing for more alternative fee arrangements? If so, what types? Is your firm amenable to those requests?

A: Yes, clients more frequently ask about alternative fee arrangements, but after we present proposals on both a traditional hourly basis and an alternative fee arrangement, they typically choose hourly. We are proactive in this area and suggest AFAs as a standard option on larger projects. Terms usually involve working on matters for a substantially reduced fee supplemented by an incentive payment if the client's goals are met or exceeded. We just concluded a large patent litigation that included a seven-figure incentive payment for achieving the client's goals and favorably disposing of the case after substantive motions and before an expensive trial. The client was happy, and obviously we were, too.

Q: There is much debate around how law firms can foster the next generation of legal talent. What advantages and disadvantages do midsize firms have in attracting and retaining young lawyers, particularly millennials?

A: It is a timely and challenging issue for sure. We recently junked our usual

partner retreat in favor of inviting our partners and associates to participate together in a two-day program devoted to examining best practices in a four-generation workforce. Our new, less-tenure-based compensation system and new associate policies adopted last year, discussed later in this article, represent additional efforts to attract and retain the best and brightest. We think midsize firms offering more flexibility and innovative solutions to the realities facing younger lawyers can turn this challenge into an opportunity. Firms that figure out how to harness the power and energy of Generation X and the millennials will be the winners. It is an exciting time.

Q: Does your firm employ any nonlawyer professionals in high-level positions (e.g., COO, business development officer, chief strategy officer, etc.)? If so, why is it advantageous to have a nonlawyer in that role? If not, have you considered hiring any?

A: Yes, and our decision to turn over key segments of firm operations to nonattorney professionals—more qualified and better suited to handle these areas than our lawyers—goes back several decades. Our partners have learned to trust the work of nonattorney professionals, recognizing that lawyers often think their business judgment is better than it is. We have built a strong, lean administrative team under a chief operating officer with Wall Street experience and decades of work in the U.S. and Europe. Our lawyers understand the firm is better served with attorneys focusing on practicing law rather than second-guessing experienced professionals tasked with running the firm. The advantages of this model are too great to list in this article. Our partners have been rewarded for their trust with financial performance that is outpacing our regional competitors by a significant margin.

Q: What, if any, technology advancements have you made in your firm in recent years? What are the challenges in implementing tech changes?

A: We still have more work to do in this area, but a few technologies added recently include business process management, predictive analytics, state-of-the-art people management software and IT security upgrades, representing a mid-six-figure investment. They have been supplemented with two human-side initiatives that address your question about challenges. The first is to make sure the technology we are investing in gets used by creating a true learning environment at the firm, top to bottom. Technology training has been the solution, including short and focused group sessions, go-to virtual instruction at the user's desk and one-on-one training sessions that cover any technology question a user may have. Our lawyers and staff have participated in literally thousands of training sessions over the past few years and have significantly enhanced their skills. The second initiative is an administrative model overhaul designed to ensure our client-delivery system is reliable and efficient. We have made great inroads in this area, and technology has been at the heart of the effort. Clients are the winners as the efficiencies have been passed along in the form of improved quality and lower cost of service.

Q: What would you say is the most innovative thing your firm has done recently, whether it be internal operations, how you work with clients, etc.?

A: We launched several new policies last year supporting the next generation of talent at the firm, and we think they set us apart. Associates can work from home up to two days per week if they prefer; back-up child

care costs are reimbursed for associates balancing the demands of work and raising young children; and a new associate-only "next generation committee" helps inform and guide firm leadership on future direction and growth. These initiatives, combined with a new compensation system that focuses less on tenure and more on performance and results for clients, represent significant departures from historic law firm operating principles. The changes have been well received, and the results can be seen in the number of very strong associates elevated to partner in the past two years, including six new equity partners and four new contract partners. We are also excited about the

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advances we are making in the area of **diversity and inclusion**. Our success teaming with law schools in developing new and exciting programs is energizing the initiative and substantially improving our recruiting and retention efforts.

Q: Does your firm have a succession plan in place? If so, what challenges do you face in trying to execute that plan? If you don't currently have a plan, is it an issue your firm is thinking about?

A: This is one area where we have excelled for reasons not altogether planned. The firm underwent a crisis and transformation 23 years ago, after which 50 lawyers, mostly in their 30s and 40s, decided to stick together and build a new kind of law firm. We started making succession a focus when we were a young partnership,

which presented a big advantage because the issues of transitioning clients and practices was an abstraction, far off in the future. Succession is now fully ingrained in our culture, and discussions about transition start when partners are in their 50s. We have a successful STAR program (succession, transition and retirement) that creates a positive pathway for partners wishing to slow down. We do not believe in mandatory retirement. Discussions in this area are time-consuming and delicate, and I work directly with each partner to develop an individualized succession plan. We lead by example, and succession of firm leadership is reviewed regularly to ensure a pipeline of future leaders is identified, mentored and trained. My own transition countdown has started with the election of Connie Cahill as deputy managing partner and heir apparent to my position. Many of our best lateral opportunities in the past five years have arisen from very strong firms struggling with the issue of succession and generational transitions. We feel lucky this has not been an issue for us.

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