Choosing between Working in Big and Small Firms: Consider These Factors

Types of Private Practice:

One career option available to you upon graduation from law school is the practice of law in a private firm. Both large and small firms—each possessing their own set of distinct advantages and disadvantages and to determine if this is a viable option, there are various factors you should consider.

Large Law Firms:

As a prerequisite to practicing for a major firm in a large city, you generally must graduate at or near the top of your law class and/or serve on law review. Since large firms receive a lot of resumes, they can afford to be very selective.

Large firms practice numerous types of law. Responsibility for each type normally rests with distinct departments such as antitrust, tax, or litigation, each striving to be the most productive in order to obtain a larger portion of firm resources such as promotion of associates and higher partner salaries. Associates are often allowed to rotate through the various departments until they find one they are especially interested in, at which point they are permanently assigned and can start to develop expertise in that particular specialty.

Hours in large firms are extremely long. Quantity of billable hours takes precedence over quality of life. As a result, associates may have to work evenings and weekends to meet billable hour quotas. Firms may bill clients for legal services using one or more of the following methods: time expended, value to the client in the form of a set fee and/or a contingency fee, which as the name implies, is payable only if the firm’s party prevails and is usually a set percentage of the settlement awarded.

It is used by some firms in personal injury cases. Large firms, due to high overhead costs, normally bill on the basis of time expended. Although required billable hours differ from firm to firm, approximately two thousand hours per year is average. Associates should inquire as to the yearly minimum number expected of them to maintain their positions as well as a yearly recommended minimum to increase their chances for promotion to possible partnership positions. This should give associates an accurate picture of obstacles ahead.

“Billable hours” does not represent the total time spent at the firm, but rather the time that is actually billed to clients. Other time may be expended on pro bono assignments, coffee breaks, training, and other related
matters. As a result, associates may have to spend 10 to 11 hours at the firm to generate 8 hours of billable time.

All time is accounted for on daily time sheets in increments, usually six or fifteen minutes each. At the end of the month, each client is billed on the basis of total time expended on that client by various persons in the firm multiplied by those persons' billing rates.

Billing rates are assessed on the basis of length of time with a firm. The longer an associate is with a firm, the higher the billing rate. Although billing rates of new associates vary among firms, it is normal to bill associates out at three times their individual compensation rate. Partners, due to their experience and expertise, are billed out at much higher rates. Also, more of a partner's time is considered billable to clients as new associates are often still learning the ropes and, therefore, are not quite performing at the partner's efficiency level. If a partner thinks an associate has spent too much time on a project, he or she will reduce the bill by the amount of time considered excessive. A large, continual difference between time charged to clients by an associate and time actually billed by a partner may result in the associate receiving a low performance rating.

Associates have little or no client contact initially. Instead, they spend their time researching the law, drafting documents, writing memoranda, or summarizing depositions. Depending on the firm, there may also be extensive travel, resulting in a great loss of personal time to spend with family and friends. Associates, however, are not required to undertake administrative duties since large firms normally have staff members to perform accounting and billing duties and a non-legal administrator, sometimes referred to as an executive director, to handle economic and human resource matters.

Since large firms normally start their associates at higher salaries than small firms, they expect associates to become efficient quickly. Efficiency is a combination of experience and well-developed organizational skills. Each associate should maintain a master file containing examples of briefs, memoranda, motions and documents already drafted to keep from having to continually reinvent the wheel.

To keep wasted time to a minimum, associates should not hesitate to ask questions of superiors if they are uncertain about some aspects of a project. Most large firms provide their associates excellent training and continuing education, whether on-site or at exclusive resorts throughout the country, and more than adequate resources with which to perform their duties, including secretaries and computerized research databases. In addition, there are such perks as country club memberships, use of company cars, possible repayment of student loans, and company expense accounts.

Competition is fierce for partnership slots; pressure to excel is intense. Today, it takes much longer to obtain a partnership position than ever before. However, rather than following the “up or out” philosophy-promotion or discharge—firms are now employing multi-tiered schemes by retaining their highly qualified associates in such positions as permanent associate, senior lawyer, or non-equity partner. Since these persons lack ownership interests, they do not have to concern themselves with promoting the practice. In addition, firms are utilizing more part-time outside attorneys in advisory capacities such as counsel, special counsel or even as contract attorneys.

Large firms are normally more consistent in their policy setting and decision making practices due to possible ramifications on the firm as a whole. This is especially true if the firm has offices in various cities throughout the country and in various countries throughout the world. Policy setting and decision making may be accomplished by the partnership collectively, a partner executive committee, or a committee comprised of both partners and associates. Partners may also supervise various aspects of firm operations and report on a periodic basis to the entire partnership.

Large firms typically handle the exciting, innovative cases that make headline news and that may entail hundreds, if not thousands, of various documents. If it is a big case it usually is entrusted to a large firm.

If you are interested in working for a particular large firm, visit with present and past associates to obtain their opinions and insights into various aspects of that firm. Inquire as to whether the firm has a multi-tiered structure and which departments within the firm are viewed more favorably than others. Find out how the firm treats its associates. Evaluate a firm in the same manner in which it will be evaluating you. Then, and only then, can you decide whether that particular firm is right for you.

Small Law Firms:

What constitutes a large versus a small firm? Although size is a relative concept, it depends a lot on the size of the city in which a firm is located. A firm with twenty lawyers would usually be considered huge in a small
town, but might be considered small compared to a large firm in the same city, or possibly even be considered infinitesimal in a large city like New York. In some cities, a large firm is defined as one that needs several floors of an office building to accommodate it.

Perhaps, irrespective of your rank upon graduation, you are convinced that you would prefer to work for a small firm. One caveat, however, to those of you with this preconceived notion—it's always easier to transfer from a large firm to a small firm than vice versa. The only exception to this rule is if the small firm for which you're practicing is highly specialized and you have a specialty in which the large firm is interested. Otherwise, the prospect of future employment with a large firm is limited because you will be considered a fish from a small pond.

In comparison to large firms, quality of life in small firms is far more important than quantity of billable hours. Except for peak periods, you will have time to spend with family and friends. There is more of a sense of esprit de corps (shared purpose) among each member of the firm—more camaraderie. Associates are treated as an integral part of the firm rather than as mere numbers. Competition is less fierce for partnership positions, with the partnership track being less formalized and of shorter duration. Work of associates who excel will be recognized due to close interaction with partners. Since the small firm is so close-knit, associates are afforded an opportunity to practice many types of law and to take a more active role in policy setting and decision making than is possible in large firms.

Associates are given a break on required minimum billable hours, but the trade-off is that fewer really big cases come their way. The small firm's personality will be determined to a great extent by the personalities of the partners who make up the firm, with the types of law a small firm practices determined in large part by each partner's area of expertise. Because there are fewer partners, thus fewer experts, smaller firms tend to be more specialized in the areas of law they practice, although in small towns, there are more general practitioners of law. Since overhead is also less in a small firm, there should be more profit to share with associates.

Early client contact in a small firm is almost inevitable. Training may or may not be comparable to that provided by large firms since small firms usually do not budget for it. Because of fewer numbers involved, associates may be expected to pull their own weight the first day on the job with little or no supervision. Associates will be expected to assume more everyday responsibility early on—possibly even supervisory responsibility. Taking everyday responsibility means proofing your own documents as to spelling, punctuation, and content, verifying that client names are spelled correctly and that titles and addresses are accurate, ensuring that all correspondence and documents have been enclosed, and then calling the client to verify receipt and to answer any questions.

Associates may even be expected to promote the practice and obtain additional clients that is, become a rainmaker. Various means used to gain more clients include writing books, articles for local newspapers or journals, active participation in various civic and charitable organizations, and possibly even serving as a supply professor at a local university. Even if associates are not required to promote the practice, they should project a positive, highly visible image within their community since most clients request the services of a specific attorney rather than those of the firm in general.

It is also remotely possible that associates may be required to perform such administrative tasks as accounting and billing, since resources such as secretaries or support staff may be minimal in relation to those of large firms. Computer terminals may also have to be shared. Tools such as computerized legal research databases may be available only to partners, or available only for very limited periods of time. Since most clients do not wish to pay large legal fees, there will be little opportunity for extensive research. Associates will probably also have to discuss estimated fees with clients in advance of performing the work.

Although associates in small firms are paid less initially than their large-firm counterparts, some small-firm lawyers become wealthy by investing in successful business endeavors with clients.

If you are contemplating small-firm practice, you should ask present or past associates many of the same questions you would ask those from a large firm. What length of time must an associate spend with a firm before being considered for a partnership position? Ask about firm structure, as it relates to policy setting, decision-making, and whether associates are allowed to participate. Inquire as to how associates are treated; also, as to what constitutes minimum and recommended billable hours.