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November 23, 2011

Skipping the Partner Track for a Shingle of One's Own

By EILENE ZIMMERMAN

Five and a half years ago, after spending years as commercial litigation lawyers at Proskauer Rose in New York City, Sari Gabay-Rafiy and Anne Marie Bowler decided to strike out on their own. They started [Gabay-Rafiy & Bowler](#) more as a lifestyle choice than a money-making venture. The first year in business, Ms. Gabay-Rafiy said, she made “just enough to pay the babysitter.”

Over time, Ms. Gabay-Rafiy and Ms. Bowler learned to re-evaluate their business practices continually to assess what was useful and profitable. That led to their decision in 2009 to move to smaller office space and to discontinue storing files offsite. Moving cut their rent 35 percent (they sublet two offices in the new space to nonlawyers) and storing files onsite saved them about \$300 a month.

They run a lean operation — just the two of them and one assistant — and they rely on their connections to an informal network of lawyers for everything from expert advice to case referrals. They sent announcements to every lawyer they knew when they left Proskauer, and they exchange business cards everywhere they go: seminars, continuing education courses, cocktail parties, networking events, even elementary school drop-offs.

Today, despite the recession, the firm is thriving. The partners say they have exceeded what they were earning when they left Proskauer. And they are part of what appears to be a trend of lawyers in their mid-20s to early 40s leaving large firms to start their own small ones.

Statistics are not easy to come by, but Margie R. Grossberg, a partner at the legal recruiting firm [Major, Lindsey & Africa](#), said she saw an increasing number of associates choosing entrepreneurship. “In the past, associates found if they worked really hard and did the right things, they made partner,” she said. “That’s not necessarily the case anymore. The odds are a lot slimmer, and it’s also not as coveted as it once was.” These lawyers want more control over their futures, Ms. Grossberg said, and they do not want to wait until they become

partner to have meaningful relationships with clients.

The economy is another factor. “There have been thousands of associates laid off because of the recession,” said Eric A. Seeger, a principal at [Altman Weil](#), a legal consultancy. “We’re seeing more lawyers out there now taking risks, and that includes going out on their own.”

Starting a law firm presents many challenges, especially for associates who have not had much experience running a firm. Michael Yim, Jane Chuang and a third lawyer, all former law school classmates, decided to start a firm in Manhattan last year, taking one large client with them. Three months later that client dropped them, taking 75 percent of the fledging firm’s revenue. Mr. Yim and Ms. Chuang’s third partner could not stomach the loss, and the relationship between the three became tense. He soon left, but Mr. Yim and Ms. Chuang soldiered on. “We started from scratch again, taking a long-term view of profit generation,” Mr. Yim said.

The firm became [Yim & Chuang](#) and now, a year later, business is better than Mr. Yim had projected, although marketing has been difficult. “There aren’t a lot of people who know about us yet,” he said. Still, he and Ms. Chuang decided not to take work they could not handle or simply did not want, even when it was tempting. “You can get this sense of desperation where you’ll take any paying client that walks through the door,” Mr. Yim said. “We’ve learned the best clients are people we would socialize with, because the relationship is comfortable, there is trust and it’s far more productive.”

In 2007 Joel Kauth and two of his colleagues left Christie Parker Hale in Irvine, Calif., to start [Kauth, Pomeroy, Peck & Bailey](#) with Kent Pomeroy, a lawyer and accountant. Mr. Kauth and his former Christie colleagues did not like the traditional billable-hours structure, so they decided to give clients a flat rate for services. “Clients love us because we give them predictability,” Mr. Kauth said. “It’s not some billable black hole.”

The billing system has been profitable for the firm because its partners have enough experience to estimate their time, and they give specific prices for particular tasks. Still, once in a while, Mr. Kauth said, “if the court is being difficult or opposing counsel is crazy, the cost goes up and we just have to eat it.”

The firm bills up front when the costs for third-party services like document production or expert witnesses is high. “Large firms have an infrastructure in place that can absorb big purchases for a large case,” Mr. Kauth said. “When you’ve got three or four people, it’s much tougher. I can’t front \$300,000 on a project.” Clients are generally understanding, he said,

and the firm gives them the vendor's bill, so they can see there is no markup.

Shortly after the firm started, Mr. Pomeroy decided to pursue other career opportunities, but he provided financial guidance to the legal start-up and designed its accounting system. At first, he said, his former colleagues did not understand the costs involved in running a law firm. "These guys didn't pay the bills at Christie," he said. "They didn't realize that lawyers are the last ones to get paid after rent, LexisNexis, paralegals, secretaries, utilities, workers' compensation insurance, payroll taxes — all the things needed to run the firm."

Before Mr. Kauth and his colleagues left their jobs, Mr. Pomeroy insisted they come up with a budget for the new firm and estimate how long it might be before they would be able to pay themselves. The best case was two months. Mr. Pomeroy said lawyers going out on their own should be able to last a minimum of three months, but preferably six, without a paycheck.

When Serena Minott started Minott Gore in Miami in 2007 with a fellow large-firm refugee, Keesonga Gore, she found that without a partner telling her what to do and when to do it, time management was surprisingly difficult. Now, she reserves Monday through Wednesday for client work and Thursday and Friday for business development. "I also keep a daily to-do list with the top three to four things that must get finished that day," she said. "I don't leave until those are finished, and then I can run a couple of errands and have lunch. I've learned that once you leave the office, it's hard to regain focus."

In 2010, Cynthia Gilbert, an intellectual property, or I.P., lawyer, left Choate Hall & Stewart and started [Hyperion Law](#) in Boston. She wanted to work with small companies. "If you're a billion-dollar company, you have probably figured out your I.P. strategy," she said. "Smaller companies don't have the resources to hire a high-powered attorney to help with that." At Choate, Ms. Gilbert tried to bring in small clients, but her 2,000 hours a year billing requirement left little time for business development.

After leaving, Ms. Gilbert spent the next seven months networking, "going from coffee to coffee to lunch and then dinner, meeting anyone interested in having a conversation about opportunities for small businesses." She was able to manage financially during this period by dipping into her savings, doing contract work for other lawyers and working for two former Choate clients.

Now she is learning to handle uncertainty. "Some months you do amazingly well," she said, "and then for several months you're slow. You have to stick it out and handle the anxiety. By

the end of my first six months, I could see the ebbs and flows. I'm calmer about it now because I know it's cyclical — it's not that I'm failing.”