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# For Post & Schell, pay follows practice area

## Associates grumbled when the system was introduced, but it helps keep overhead down and clients like that.

BY KAREN SLOAN

The concept is pretty straightforward: If a law firm associate in one practice area bills at a significantly higher rate than a same-year associate in a different practice area, shouldn't he or she make more money?

Philadelphia's Post & Schell thinks so. It has done away with the popular lockstep model in favor of an associate compensation system that focuses on each attorney's ability to generate revenue for the firm. Since 2000, the 170-attorney firm has been paying its 90 associates based on their practice area as opposed to their class year, said firm President and Chief Executive Officer Brian M. Peters. The arrangement means that the attorneys who generate the most revenue for the firm, because they bill at the highest rates, also collect the highest associate salaries.

"We sell legal services. People pay different rates for those different services," Peters said. "We don't charge the same thing for white-collar crime as we do for employment law. We decided that having one salary for 80 different types of law was not suitable. It became apparent to me that we needed to understand our industry isn't different from other industries."

Amid the financial strain of the flagging economy, some firms are starting to roll back associate compensation. DLA Piper  Click for Enhanced Coverage Linking Searchesannounced last week that it is cutting associate base pay 10% across the board, and a number of other firms - including Baker & McKenzie, Click for Enhanced Coverage Linking SearchesNixon Peabody  Click for Enhanced Coverage Linking Searchesand New York-based Chadbourne & Parke Click for Enhanced Coverage Linking Searches- have recently reduced associate pay. While it's not necessarily right for every firm, Peters recommends that law firm leaders eager to contain associate compensation consider basing associate pay on practice areas, as his firm does.

He declined to comment on Post & Schell's annual revenue or profits per partner but said that the firm is financially secure and not reliant on credit lines - although it did lay off two associates in January because of a slowdown in work in their practice areas. The firm's relative stability in difficult economic times is due to a series of management decisions intended to rein in costs, Peters said, including the associate pay structure.

Different pay for different associates has made it more cost-effective for the firm to maintain a wide range of legal services; the system has lowered the overall cost of Post & Schell's practice areas that bill at lower rates, Peters said. The firm has different pay levels within its offices, each dependent on practice area. For example, the firm's Philadelphia office has four starting-salary steps, ranging from $82,500 to $125,000. Annual raises are based on an evaluation of the individual associate's work. Peters declined to say which practice areas pay the most and which pay the least.

The salary steps are determined by factors including billing rates and salaries at comparable law firms. The firm has adjusted its starting salary rates upward four times since Peters assumed the firm's top post in 2000. "If our rates haven't been raised, then I don't raise starting associate salaries," he said.

Sheri Michaels, head of the global associate practice group at legal recruiting firm Major, Lindsey & Africa, said that she hasn't heard of any firms that structure associate pay by practice area. Neither has James Cotterman, an Altman Weil consultant with expertise in law firm compensation. Neither firm does business with Post & Schell.

"I think this makes a tremendous amount of sense," Cotterman said. "There are some stark differences in the rates you can charge for legal services, and it's not realistic to pay all associates the same thing. To say that all associates have the same economic value to their employers is not true."

That said, part of the attraction of lockstep compensation is its simplicity, Cotterman said. Paying all starting associates the same amount eliminates internal friction among young attorneys and makes recruiting easier because firms don't have to explain to potential hires that they might be paid less than a classmates in a different practice area.

Post & Schell hasn't had a problem recruiting young attorneys since it switched to practice area-based compensation, Peters said. He credited the firm's up-front approach with tamping down tensions among associates, though he declined to make associates available to talk on the subject. Peters said that he didn't want them to reveal which practice areas are the highest and lowest paid.

He did acknowledge that some associates may have left the firm when the system was introduced. A current associate indicated that the different pay scales continue to irritate in some circles - principally associates in regional offices who get lower base salaries than colleagues with less experience in the firm's Philadelphia headquarters. However, a different associate reported overall satisfaction with the system. Both requested anonymity because they were not authorized by the firm to comment.

**NO TROUBLE RECRUITING**

From the start of the recruiting process, Post & Schell explains its compensation scale and the reasoning behind it. Recruits apply for the practices in which they want to work; only a handful have indicated that pay influenced their choice, Peters said. The firm lacks a summer associate program and doesn't recruit heavily from top-tier law schools; most of its associates went to law schools in the Pennsylvania area such as Temple University James E. Beasley School of Law, Villanova University School of Law and the University of Pittsburgh Law School.

"People want to do a specific type of law, and we've found that different salaries haven't really made a difference," Peters said. "Our associates are pretty evenly distributed, and no department has ever had trouble recruiting. I have never subscribed to the theory that, if you pay associates the most money, you will have low turnover. They have to like what they're doing."

Regarding attrition, Peters said that the firm has lost as many as three associates per year recently, but sometimes none at all. That would seem a lower rate than at comparable firms. Although associate attrition has dropped dramatically since the economy crashed last fall, the National Association of Law Placement Foundation reported last year that 80% of attorneys had left positions at large law firms within five years of being hired.

Lifestyle also plays a part. Some Post & Schell associates opt for practice areas at the lower pay tiers because the hours are better and there is less stress than in higher-paying practices, Peters said.

The move has been popular with clients, who are briefed on the firm's various cost-savings measures, including the associate pay structure.

"I've never had a client who said they would hire me specifically because of how we pay our associates, but I have heard many clients comment that they appreciate the way we manage the firm, especially over the past two years," Peters said.

Paying based on practice area isn't that different from paying associates in different offices different salaries to account for discrepancies in cost of living and other market conditions, Cotterman said. However, "it's easier to accept it when you are not working in an office next door to someone in your class who is making significantly more."

Michaels compared the practice to paying an internist and an orthopedic surgeon different rates for the different types of medical care they offer. Still, she said, moving away from lockstep compensation would be difficult for law firms given that it has been the prevailing pay model for so long. "They would have to be very nimble to implement it," Michaels said.

It's not unheard of for practice area to be a factor in how firms determine associate pay. First-year patent attorneys generally have a higher base pay than same-year attorneys in other practice areas, because they must hold at least a bachelor's degree in a recognized "field of technology."

Still, the recession has created an opportunity to make some significant changes - be it practice area or merit pay, Cotterman said. "A lot of things you wouldn't have seen two years ago are being done today because the economic situation is so different. I think we'll see more firms looking for better ways to run their business."

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