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BONUSES SPREAD TO ASSOCIATES AT MIDSIZE AND SMALL FIRMS

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Bonuses Spread to Associates at Midsize and Small Firms



Steven Sladkus is a partner at Wolf Haldenstein Adler Freeman & Herz, which created a merit-based system for awarding associate bonuses. Christine Simmons

Associate bonuses are no longer confined to large law firms. Midsize firms and boutiques say they are increasingly using individualized merit pay paired with incentive packages to retain and reward their most talented lawyers.

"We're smaller and we have to be in some ways more bottom line thoughtful and more creative," said Eric Wagner, corporate practice leader at Kleinberg, Kaplan, Wolff & Cohen.

Large law firms typically follow the lead of Cravath, Swaine & Moore, whose annual associate bonus announcement sets the standard. Kicking off the most recent bonus cycle, Cravath said in December it would award a \$10,000 bonus for 2012 law school graduates and up to \$60,000 for those in the 2005 class or more senior associates.

At midsize firms and boutiques, the bonuses can be just as high or higher for a select group of top-performing associates. They also can be modest, a reflection of lower billing rates to more mid-market clients.

Although annual bonuses at smaller firms aren't as predictable, firm leaders said the trade-offs for young attorneys are lower billable hour targets, direct experience and a pathway to partnership for associates.

Seven small to midsize firms firms shared their approach to associate bonuses:

- At BuckleySandler, a boutique that serves the financial services industry, bonuses are not guaranteed. They are given to associates and counsel based on their performance and firm "citizenship," including work ethic, teamwork and commitment to the firm, said Andrew Sandler, chairman and executive partner.

"Our basic philosophy is, our best performing lawyers should always get bonuses that are at or above the big firms," Sandler said.

The other factor is the firm's yearly economic performance. Bonuses for associates and non-attorney staff "are better when the firm has a good year," he said.

Last December, Sandler noted, some of the firm's top-performing associates received bonuses above Cravath's range, while others stayed in the \$10,000 to \$60,000 range.

"We are focused on providing value to clients and fair compensation to our employees, and our bonus structure is derived based on those twin objectives," he said. "What large firms do in their bonus pools is of much less significance to us."

But he added the market-rate scale is a "relevant data point, because we are competing with [large firms] for the same associates. But we think we can offer a much greater set of opportunities to young lawyers."

The firm's base salary for first-year associates is about \$155,000, he said.

- At Kleinberg, Kaplan, Wolff & Cohen, a 60-attorney firm that represents, among others, investment funds, including hedge and private equity funds in corporate and real estate matters, year-end bonuses may be awarded to associates and counsel who have more than 2,000 billable hours a year, said managing partner Andrew Chonoles.

Associates and counsel also benefit from bringing clients to the firm, he said.

The firm also contributes to an employee profit-sharing plan for non-attorney staff, associates and counsel. The contributions are tax deferred and fully vested in five years, similar to an extra 401K.

With everything combined, "the package provides substantial upside to attorneys" that could exceed the upper range of the standard bonuses of large firms, Chonoles said.

"We view our package as competitive with everybody once you put all those pieces together," said Eric Wagner, Kleinberg's corporate practice chair. "We don't try to match what big firms pay on every particular line."

Another incentive for associates is advancement. Most of Kleinberg Kaplan's current equity partners come from the associate ranks, firm leaders said.

- Otterbourg, a 55-attorney firm representing clients in financing transactions, litigation and creditor rights, determines year-end bonuses by looking at the quality of legal work, responsiveness to client needs, billable hours and an associate's class, said firm chairman Daniel Wallen.

Based on those factors, he said an associate's total compensation, including base salary and year-end bonus, can be similar to what he or she could earn at a large firm. "We are interested in being competitive to large firms. We carefully follow what large firms are paying."

The range for associate bonuses at Otterbourg is typically \$15,000 to \$100,000. Associates are not guaranteed bonuses, Wallen said, but generally they receive one every year.

"In a midsize firm, individual associates do not get lost and can be evaluated on their individual performance," he said. "Compensation should be awarded based upon performance rather than an associate feeling an entitlement to a certain amount of compensation merely because they are in a particular class."

- Class action and real estate firm Wolf Haldenstein Adler Freeman & Herz, with 74 attorneys, previously awarded bonuses based on seniority.

But in recent years, the firm moved to a merit-based system, awarding year-end bonuses to associates based on their placement in one of three categories: A for all-around superior work; B for excellent work needing some improvement; and C, for work needing much more improvement, said Steven Sladkus, a partner at the firm.

Sladkus declined to discuss the amount of bonuses for each category, but said lawyers in the same category generally receive similar bonuses.

"In some cases, it delicately sends message to people who need the message," he said. "It incentivizes them. If you're lockstep, sometimes it doesn't address the issue as it really should be addressed."

Wolf Haldenstein determines bonus category by evaluating work product, billable hours, interactions with clients, trial and transaction performance, feedback from clients and partners, Sladkus said. The firm's performance doesn't affect the bonus, he said.

Compared with a large firm, "we're only reviewing 38 people," said partner Gregory Nespole. "We can sit down and do this on a much more subjective, holistic manner."

The firm's daily adversaries in court are lawyers from Skadden, Arps, Slate, Meagher & Flom and Cravath. "So of course I have to be very mindful of their compensation basis," Nespole said.

"We do attract great talent to our firm and in being able to continue to do so, we have to pay attention to those statements and those numbers," Sladkus said.

- John Langan, managing partner of Syracuse-based Hiscock & Barclay with 200 attorneys, said associate bonuses are not tied to his firm's financial performance.

"They don't share in upside, so they shouldn't be punished in the downsides," Langan said. "If there was a down year, the last person you want to take it out on is a performing associate."

Associates at Hiscock & Barclay are not eligible for a bonus in their first couple of years. "We want our lawyers interested in getting integrated," Langan said.

Mid-level associates can receive bonuses up to \$15,000. Senior associates can receive up to \$25,000 and counsel up to \$35,000, he said. Langan said the bonuses are generally higher than at other upstate regional firms, a competitive advantage in recruiting. The firm's starting salary for first-year associates is around \$85,000, he said.

The floor for bonuses in all ranges is zero, Langan said, because associates have to meet certain targets to be eligible. Those targets include quality of lawyering, client service, teamwork, client feedback and financial metrics such as billable hours and fees collected.

The billable hour goal for starting associates in their first two years is 1,700, which can include pro bono work and shadowing, he said.

More than half of the firm's associates received year-end bonuses in 2013, Langan said. "We can't compete on money but we can compete on experience and the training you get," he said.

- Morrison Cohen, a 90-attorney firm, awards year-end bonuses based on an associate's performance as well as the firm's own. The firm also provides associates 20 percent of fees from any business they originate as encouragement to build their own books of business, firm chairman David Scherl said.

With base salary, merit bonuses and business bonuses combined, the total compensation is more than competitive with large firms, Scherl said. "In many instances, our associates can find themselves getting paid at greater aggregate levels than they received at their predecessor large firm employers," Scherl said, declining to confirm his firm's bonus range.

An associate's target billable hours are 1,900 a year. "We actually don't want them to have 2,100 or 2,200 hours because we are trying to avoid burn out. Unlike our larger law firm competitors, we do not have a built in attrition rate," Scherl said.

- At 75-attorney Phillips Nizer, year-end associate bonuses are based on their annual evaluations, their billable hours and nonbillable performance, said partner Martin Wasser. If they reach 1,850 billable hours, they generally receive a bonus.

Wasser declined to specify the range of bonuses at the firm. He said Phillips Nizer pays attention to the Cravath scale, but "we look at what makes sense within our own economic structure."

Also, every quarter, Phillips Nizer awards bonuses to associates based on business they bring, possibly up to 15 percent of the firm's realization. "We find it very helpful because it encourages associates, even at young levels, to be thinking about what business they can originate or what clients they can bring in," he said.

"Mid-sized firms are more oriented to a structure that is based on more individual performance," Wasser said. "They need to be more entrepreneurial, and because there's less institutional business, they're more interested in trying to encourage individual associates."

For those associates coming to Phillips Nizer from larger firms, Wasser said, "they recognize they may be making less overall, but the trade-off is, they may not be killing themselves working seven days a week."

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