

Spring | 2013



Northern California Legal Market

State of the Market and Law Firm Guide

W. Jon Escher | Founding Partner, Solutus Legal Search LLC
Attorney Search Management & Career Consulting

www.solutuslegal.com

 **SOLUTUS**
Attorney Search Management & Career Consulting

Follow me on Twitter @lawjobsguy

Introduction

As the first quarter of fiscal 2013 comes to a close, the pace of recovery in the Northern California legal market is accelerating. Entry and lateral hiring levels are still far off their pre-recession highs, but a discernible increase in demand is taking hold across a broad spectrum of practice areas. There are many unique aspects of the Northern California legal market that account for the improving employment prospects. This summary of the state of the market will examine these unique aspects in the context of the major practice areas and identify those law firms that possess a significant Northern California presence in such practice areas.

Of course, any such guide will necessarily be somewhat subjective. It is a particularly tricky business in Northern California where so many national and international firms have branch offices. The vast majority of the branch offices of these major firms are fairly small. Such firms may have world-renowned practices in certain practice areas that are centered in other offices, but have yet to establish much of a foothold for such practices in the Northern California market. For example, a firm that is a national leader in anti-trust thanks to their Washington, D.C. and New York offices may have a small office in Northern California without any antitrust capacity at all. As a result, such a firm would not appear on the list providing names of firms with a significant antitrust practice.

A word about the selectivity of firms in their hiring decisions: it will be very high. Some firms will be more grade-conscious than others, but all of the firms listed in this summary will look for respectable to strong law school performance. The competition to practice in the Northern California market, either as an entry-level lawyer or a lateral, has never been fiercer.

The firms listed in this guide skew heavily towards the larger national and indigenous firms. While the small or mid-sized high quality boutique has not vanished from the scene, such firms have been greatly diminished in number by a series of mergers over the last several years. The list will include these small or mid-sized firms where warranted.

Practice Areas

Corporate/Emerging Company

The corporate practice area in Northern California is most productively divided into four separate practice divisions:

- emerging company;
- public company and M&A;
- private equity/venture capital/fund formation;
- capital markets/financial institutions.

There is, of course some overlap among these practices. We'll start with Corporate/Emerging Company.

Northern California remains the undisputed national leader in the Emerging Company practice area. The technology driven innovation and entrepreneurial culture of Silicon Valley and San Francisco produces thousands of start-up companies, all in need of legal representation. This practice area focuses on helping young companies obtain funding, protect their intellectual property, license their products, support their sales function, and provide a broad array of general corporate assistance. It is an associate-heavy type of practice because these start-up companies are unable to afford significant doses of partner-level billing rates. As a result, young associates who practice in this area often acquire significant and broad experience early in their careers.

The corollary is that many large national and international firms that need to maintain premium billing rates are not major players in the Emerging Company/Corporate market. The indigenous Northern California firms with deep roots in the Emerging Company market dominate this sector and over time have developed highly profitable and efficient legal services that ultimately pay-off handsomely when certain of their start-up clients turn into hugely successful public companies.

Here are firms to consider:

Cooley
DLA Piper
Fenwick & West
Gunderson Dettmer
Jones Day
Morrison Foerster

O'Melveny & Myers
Orrick
Perkins Coie
Pillsbury Winthrop
Sidley Austin
Wilson Sonsini

Corporate/Public Company/M&A

This practice area focuses on providing securities compliance (from IPO through to on-going securities compliance, disclosure), corporate governance, and M&A transactional legal support. The M&A piece may involve large public acquisitions or smaller private ones. This practice area supports higher billing rates and proportionally higher partner level involvement. Associates tend to work in larger teams with responsibility for discrete aspects of the deal.

The higher billing rates in this practice area attract larger national firms that compete fiercely with indigenous firms for this premium work. Such competition leads many clients to use several different firms over a period of time to handle their major acquisitions. Due to the consolidation in the technology industry over the last several years, the Public Company/M&A practice has grown.

The lower dollar value end of the M&A market has also grown due to the relatively weak IPO market. Many smaller companies now look to the sale of their company to a discrete buyer as the most viable “liquidity event” for their initial investors as opposed to an IPO. Often many of the indigenous NorCal firms with strong emerging companies practices will be on the sell side of M&A deals. The larger New York based firms often find themselves on the buy side when the buyer is a larger public company.

Here are firms to consider:

Cooley

DLA Piper

Davis Polk

Fenwick & West

Gibson Dunn

Jones Day

Kaye Scholer

Latham & Watkins

Morrison Foerster

Orrick

Pillsbury Winthrop

Shearman & Sterling

Sidley Austin

Simpson Thacher

Skadden

Weil Gotshal

Wilson Sonsini

Corporate/Private Equity/Venture Capital/Fund Formation

The term “private equity” can sometimes seem infinitely elastic. It can cover a broad range of investing activity. Depending on who you are talking to, it can include traditional venture capital, hedge funds, classic private equity “buy-outs”, or straight non-public mergers & acquisitions. Most firms will break out their private equity

practices as distinct from their other corporate practices, but in truth there is often significant overlap with both the Emerging Company and M&A practices. Private equity practices tend to also have a strong “national” flavor to them. The client is the “money” which (outside of the local venture capital community) could be, and often is, located outside of Northern California.

For associates this practice area often divides into two broad categories: fund formation and transactional. The vast majority of the Northern California firms that are strong in this area are active in both categories.

Here are firms to consider:

| | |
|------------------|-------------------|
| Cooley | Latham & Watkins |
| DLA Piper | Morrison Foerster |
| Fenwick & West | Ropes & Gray |
| Gibson Dunn | Simpson Thacher |
| Goodwin Procter | Weil Gotshal |
| Kirkland & Ellis | Wilson Sonsini |

Corporate/Capital Markets/Financial Institutions

This practice area focuses on the representations of financial institutions (underwriters, investment banks, and traditional commercial banks) with respect to capital markets transactions (debt or equity) and more traditional lending. This practice area does tend to be dominated by national non-indigenous firms as the clients are overwhelmingly headquartered in money-centers outside of Northern California. This has been increasingly true due to the consolidation of the banking industry where so many of the larger traditional San Francisco-centered banks have either been purchased or moved their headquarters outside of Northern California.

Here are firms to consider:

| | |
|--------------------|-------------------|
| Chapman and Cutler | Morrison Foerster |
| Cooley | O’Melveny & Myers |
| DLA Piper | Orrick |
| Davis Polk | Sidley Austin |
| Fenwick & West | Simpson Thacher |
| Gibson Dunn | Skadden |
| Latham & Watkins | Wilson Sonsini |

Litigation/Intellectual Property

The litigation practices in Northern California can be sliced and diced into myriad sectors. However, the big driver of growth right now is Intellectual Property litigation. Demand in General Commercial Litigation is also strong. Traditionally, Northern California has been a center of significant Securities Litigation. It still is, however, there has been very limited growth recently in that practice area. Other niche practices like anti-trust and white collar crime have very small footprints in Northern California. This overall litigation then section will be divided into three areas: Intellectual Property Litigation, General Commercial Litigation, and Miscellaneous Litigation (a grab bag of the various smaller niche litigation practices).

There has been significant growth in Intellectual Property Litigation in Northern California over the last several years. It shows no sign of slowing down. The growth is driven by several factors. First, the explosion in the growth of NPEs (non-practicing entities, or “patent trolls”, if you like) has created an ever expanding universe of plaintiffs who aggregate patent portfolios, seek to obtain licensing revenues from alleged infringers and sue them when the alleged infringers refuse to pay such licensing fees. The raw number of IP lawsuits that are filed has increased significantly. In addition, rival companies have become more aggressive about asserting their IP rights against competitors resulting in several high profile “fights to the death” where the stakes are sky high.

Both indigenous and out of town firms compete fiercely for talent in this practice area, creating opportunities for appropriately skilled lateral and entry level lawyers. Advanced degrees in relevant technical subject matters are sometimes required, but not always.

Here are firms to consider:

Alston & Bird

Arnold & Porter

Bergeson, LLP

Cooley

Covington & Burling

Davis Polk

Dechert

Duane Morris

Farella Braun & Martell

Fenwick & West

Gibson Dunn

Hogan Lovells

K&L Gates

Keker & Van Nest

Kramer Levin

Latham

McDermott Will &

Emery

Morgan Lewis & Bockius

Morison Foerster

O’Melveny

Orrick

Paul Hastings

Quinn Emanuel

Sidley & Austin

Skadden

Weil Gotshal

WilmerHale

Wilson Sonsini

Litigation/General Commercial

This category can include a wide variety of matters from complex class action, toxic tort, insurance coverage, general contract disputes, and many others. The market in this area is very fragmented and includes a large dose of medium sized and smaller firms. Overall, demand in this area is increasing.

Here is a list of firms to consider:

| | | |
|-----------------------|--------------------------|--------------------|
| Allen Matkins | Farella Braun & Martel | Nixon Peabody |
| Arnold & Porter | Fenwick & West | Orrick |
| Bartko Zankel | Foley & Lardner | Paul Hastings |
| Bergeson, LLP | Gibson Dunn | Pillsbury Winthrop |
| Berliner Cohen | Gordon & Rees | Quinn Emanuel |
| Bingham | Greenberg Traurig | Reed Smith |
| Bryan Cave | Hanson Bridgett | Schiff Hardin |
| Buchalter Nemer | Hogan Lovells | Sedgwick |
| Carroll Burdick | Jeffer Mangels | Severson & Werson |
| Cooley | Jones Day | Seyfarth Shaw |
| Cooper White & Cooper | K&L Gates | Sheppard Mullin |
| Crowell & Moring | Keker & Van Nest | Sideman & Bancroft |
| Davis Wright Tremaine | King & Spalding | Sidley Austin |
| Dechert | Latham & Watkins | SNR Denton |
| DLA Piper | Manatt Phelps & Phillips | Wilson Sonsini |
| Dorsey & Whitney | Morgan Lewis & Bockius | |
| Duane Morris | Morison Foerster | |

Miscellaneous Litigation

Securities Litigation

Once a strong driver of litigation growth, this practice area has become a victim of its own success. While several big firms maintain securities litigation practices, victories in the courtroom have raised the bar for plaintiffs to bring suits, thus diminishing the overall number of cases. Still, the ones that are brought are of a significant nature and command premium billing rates. Also, many firms combine their securities litigation

practices with internal investigations practices (where companies engage firms to conduct an investigation of the company to determine if there has been any wrongdoing).

Here are firms to consider:

Arnold & Porter

Boies Schiller

Cooley

Covington & Burling

Dechert

Fenwick & West

Keker & Van Nest

King & Spalding

Latham

Morgan Lewis & Bockius

Morrison Foerster

Munger Tolles

Orrick

Quinn Emanuel

Wilmer Hale

Wilson Sonsini

Labor & Employment

This is a steady practice without significant growth or erosion. Here are firms to consider:

Allen Matkins

Berliner Cohen

Hirschfield Kraemer

Fisher & Phillips

Jackson Lewis

Jeffer Mangels

Little Mendelson

Manatt Phelps & Phillips

Morgan Lewis & Bockius

Nixon Peabody

Ogletree Deakins

Orrick

Paul Hastings

Payne & Fears

Pillsbury Winthrop

Reed Smith

Sedgwick

Seyfarth Shaw

Sheppard Mullin

Wilson Sonsini

Antitrust

This is a very small practice area in Northern California. Here is a list of firms to consider:

Arnold & Porter

Baker & McKenzie

Cooley

Gibson Dunn

Jones Day

Morrison Foerster

Shearman & Sterling

Wilson Sonsini

White Collar Crime

Another very small practice area. Here is a list of firms to consider:

Arnold & Porter

Cooley

Gibson Dunn

K&L Gates

Keker & Van Nest

Jones Day

Morgan Lewis & Bockius

Morrison Foerster

Orrick

Wilson Sonsini

Intellectual Property/Patent Prosecution and Transactional.

Not surprisingly, given the nature and scope of technology-driven companies in Northern California, there is a deep bench of patent prosecution and technology transactional/licensing firms in Northern California. Not all patent prosecution firms have deep licensing practices and general service firms with licensing practices may not have significant prosecution practices. The patent prosecution practices tend to be dominated by IP boutiques, while there are a small number of general service firms with licensing practices. Rate pressure in both practice areas tends to dissuade larger premium-billing firms from building substantial practices in these areas.

Firms to consider include:

Alston & Bird

Baker Botts

Beyer Law Group

Blakely Sokoloff

Carr & Ferrell

Cooley

DLA Piper

Dorsey & Whitney

Fenwick & West

Finnegan, Henderson

Fish & Richardson

Foley & Lardner

Greenberg Traurig

Gunderson Dettmer

Haynes and Boone

Jones Day

Kenyon & Kenyon

Kilpatrick Townsend

King & Spalding

Knobbe Martens

Kramer Levin

Latham & Watkins

McDermott Will & Emery

McKool Smith

Morgan Lewis & Bockius

Morrison Foerster

Novak Druce Connolly

Orrick

Perkins Coie

Pillsbury Winthrop

Sheppard Mullin

Wilson Sonsini

Womble Carlyle

Real Estate/Land Use

In general, real estate and land use practices in Northern California were hard hit by the recession. The recession accelerated a trend among many large firms where real estate practice groups spun out to form their own boutiques. Still, some large firms retain highly profitable real estate practices, particularly large development land use practices. Several Los Angeles based real estate firms maintain Northern California offices.

Firms to consider include:

| | |
|-------------------------------|--------------------------|
| Allen Matkins | Hoge Fenton |
| Bartko Zankel | Holland & Knight |
| Berliner Cohen | Hopkins & Carley |
| Buchalter Nemer | Jeffer Mangels |
| Carr McClellan | Manatt Phelps & Phillips |
| Coblentz Patch | Miller Starr Regalia |
| Cooley Godward | Morgan Lewis & Bockius |
| Cox Castle Nicholson | Munger Tolles |
| DLA Piper | Nixon Peabody |
| Downey Brand | Orrick |
| Farella Braun & Martel | Pillsbury Winthrop |
| Fitzgerald Abbott & Beardsley | Rutan & Tucker |
| Gibson Dunn | Stein & Lubin |
| Greene Radovsky | Steppe Stone & Lakey |
| Hanson Bridgett | Thoits Law |

Environmental

This practice area has been in general decline for several years and now is centered in a small number of firms that often combine environmental regulatory, environmental litigation, and natural resources law into one practice group.

Here are firms to consider:

| | |
|------------------------|--------------------------|
| Best Best & Krieger | K&L Gates |
| Beveridge & Diamond | Manatt Phelps & Phillips |
| DLA Piper | Miller Starr Regalia |
| Farella Braun & Martel | Nossaman |
| Holland & Knight | Pillsbury Winthrop |

Bankruptcy

The recession increased demand for bankruptcy attorneys, but did not significantly alter the landscape in Northern California. Bankruptcy has always been a fairly small practice area in Northern California (especially when compared to Los Angeles). As the recovery takes hold, demand is slowly falling off, but should not materially affect the few practices with any significance in this sector.

Here are firms to consider:

Allen Matkins
Buchalter Nemer
Duane Morris
Jeffer Mangels

Pillsbury Winthrop
Sheppard Mullin
Winston & Strawn

Conclusion

As the first quarter of 2013 comes to a close there is a palpable sense of optimism that the recent gains in lateral hiring will intensify in Northern California. Whether this will have the effect of significantly improving the entry-level market is yet to be seen. Even with an improving demand climate for legal services, there remain substantial barriers to a robust recovery that could return us to pre-recession levels of hiring. Those barriers include: accelerated commoditization of legal services (particularly those services performed by young associates), persistent rate pressure from clients who demand a greater alignment between cost and value (again, this hurts young associates the most as they are least equipped to deliver value due to lack of experience), increased off-shoring and outsourcing of legal services, increased automation of legal services and the effect of searchable “big” databases, and host of other factors.

Even so, the Northern California market remains the most robust of all the major metropolitan legal markets with a short-term future that, due to the concentration of innovative companies, is among the brightest in the world.