

Finding the Greener Grass—The Ins and Outs of Going In-House

by Bettina Elias Siegel

When I was a young associate at a New York City mega-firm, it always seemed to me that you could spot the future partners in my class from a mile away. They were the ones who, even as first-years, would confidently plunk their trays next to senior firm management in the cafeteria and strike up a conversation, the ones who had been perfecting their golf games since grade school with an eye toward future rain-making on the links, and the ones for whom no sacrifice of personal life for the good of the firm was too masochistic. Would I miss my sister's wedding to write a motion for a preliminary injunction over the weekend? No problem at all, sir—my family can send me photographs!

I freely confess I was not one of those associates. I had headed straight from law school to the mega-firm with an embarrassing lack of forethought: I had student loans to pay off, I wanted to live in New York City, and the work at the firm had seemed interesting enough as those places go. But, although I had willingly placed my wrists in the golden handcuffs, I never felt the burning desire to claw my way into the firm's upper echelons. To the contrary, I couldn't help noticing that many of the partners for whom I worked looked no less miserable or sleep-deprived than I did. Sure, when the pre-trial all-nighter was over, they were going to get their two hours of sleep on Park Avenue and I was going to a less prestigious address, but I wasn't convinced that their huge salaries were worth what they had to give up to earn them. To enjoy a posh lifestyle, it seemed to me, you actually needed to have a life.

So fairly early on, I was already thinking about my exit strategy from the mega-firm, and that's when I began to feel the alluring pull of the in-house legal job. From where I sat (specifically, in a tiny office strewn with empty coffee cups, piles of paper, and those ridiculous "deal toys" that were a

sorry reward for all you endured to get them), the life of the in-house lawyer looked pretty sweet. The in-house lawyers who were our clients seemed more relaxed and rested than we were, and they had time to attend the four-star lunches to which our department treated them to butter them up for more business. We associates were attending the lunches, too, but always with a panicked eye on our watches, knowing full well that every hour we passed over our meal would be paid for with another hour at our desks later that night. And when it came to the gut-wrenching decisions these in-house lawyers had to make on their company's behalf, decisions with no clear answer and upon which millions of dollars might ride, they were able to come to us for hard-bore analysis and, ultimately, some political cover, should things go badly. I resolved that I wanted to be the person on the receiving end of the advice memo, and not the poor schlub who'd greeted the sunrise from a window in the law library to write it.

It wasn't long before I achieved my goal; I ultimately worked as in-house counsel for two different companies before leaving the law altogether to stay home with my children. The companies at which I worked could not have been less alike: The one was relatively small, freewheeling, and unstable; the other monolithic, staid, and secure. The one was in comic book publishing and licensing, an industry lawyers might call "sexy" (can we all collectively agree, right here and now, that this adjective should never be applied to legal work?), while the other was a consumer products conglomerate that churned out such mundane products as shampoo, instant soup, and fish sticks. At the one, I was more of a generalist, while at the other, I worked in a highly specialized area.

What I learned from my tenure in these very different work environments is that, while the in-house lifestyle generally is better than a firm's, it can be a challenge to find the right fit. Not all in-house environments will mesh with one's particular lawyering style and long-term goals. And so for the benefit

Bettina Elias Siegel is an attorney residing in Houston, Texas, where she currently works as a freelance writer.

of law firm associates considering a move to a corporation, I've conducted a highly unscientific survey of some fellow in-house lawyers, and picked the brain of a legal recruiter, to cull all the advice I wish I'd gotten *before* leaving my firm. I've given my surveyed lawyers pseudonyms, at their request.

The first question to consider when planning an in-house move is timing. When life at a firm seems particularly grim and a headhunter calls with an in-house opportunity, the temptation to jump ship immediately can be strong. I say this from experience—I had begun interviewing for an in-house job as early as my second year at the mega-firm and ultimately left at the end of my third. However, looking back, I now see that there would have been significant advantages to sticking it out longer—specifically, I had no idea how untethered I would come to feel after leaving the mega-firm. As an associate, I'd always struggled to find the "right" answer and had been uncomfortable with any ambiguity. Once I left for the comic book publisher, however, I no longer had ready access to the same wide array of legal research materials, but not every question brought to my door was worthy of the time and expense of seeking outside counsel. So, in most cases, I had to make quick decisions based on nothing more than my prior—and quite limited—legal experience and my own gut instincts. Although I had been hired by the company for my expertise in a narrow practice area, I was now being called on to perform more as a generalist, spending only a small amount of my time on intellectual property law, the area in which I had the most training. It's not necessarily a bad thing to learn to fly by the seat of one's pants, but it would have been far easier if I'd stayed at the mega-firm for a few more years, garnering more experience and seasoning.

What I didn't appreciate as a third-year was that leaving a law firm meant leaving one of the best learning environments for young lawyers, a place in which, generally speaking, an associate regularly encounters a breadth of issues, has reliable access to mentoring from other lawyers, and receives both formal and informal training. And once you leave a law firm, you're less likely to return to one down the road. As the general counsel of a small energy company (I'll call her Karen) told me, "When you get in-house, nobody has time to train you. And if you don't know what you're doing, you will never pick those skills up." She advises young associates "to think long and hard about leaving that training ground behind because you'll never really get it again."

Although there's no "right" time to make the switch, Suzette Simon Rubinstein, executive managing director at The Artemis Group Ltd., a New York recruiting firm, advises associates to remain at a law firm for at least four or five years before going in-house. "In general," she says, "the training tends to be better for younger lawyers at a firm than it is in-house, and developing hands-on legal skills before going in-house is usually a prerequisite for obtaining an in-house position." The size of the in-house legal department you're considering may also dictate how much experience you should already have under your belt. The vice president and associate general counsel at an educational services company (whom I'll call Tracy) cautions, "For a small legal department you need to come in with strong skills. It would be very hard to train anybody in a small department."

There used to be a perception that a lawyer could stay at a firm too long before making an in-house move, but this may no longer be the case. Karen says that at both her current and previous in-house jobs, the companies "actively looked for

fairly senior people to hire—young partner level and above, if they could get it. They wanted people who could be basically completely autonomous in their own specialty." And Rubinstein, the legal recruiter, notes, "One trend that I have noticed in the last decade or so is that quite senior partners are leaving firms that they may have spent 25 or 30 years at to assume general counsel positions. This didn't happen as frequently in the past."

Just as important as the length of time an associate spends at a law firm is the type of experience he or she garners while there, and not all experience is created equal in the eyes of the in-house employer. For example, early in my tenure at the mega-firm, a fellow associate who was leaving for an in-house job quietly pulled me aside and advised me to request particular assignments within our intellectual property practice—trademark portfolio management, for example, and transactional work—if I ever wanted to follow in her footsteps. Many of the other in-house lawyers I spoke with also made a concerted effort during their time at a firm to acquire experience that would be particularly attractive to potential in-house employers and that would serve them well once they made the move.

For litigators, Rubinstein notes that "companies generally want an attorney who at a minimum has taken and defended depositions, argued motions in court, conducted internal investigations and ideally participated in a meaningful way in trials and/or administrative hearings." Even when seeking non-litigation positions within a corporation, associates with litigation experience may have something extra to bring to the table. An in-house lawyer at a luxury consumer goods

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company (I'll call her Elaine) says that when working on transactional matters, "thinking about litigation changes your approach. Someone who doesn't have a litigation background might not appreciate the significance of the nuances of the language. When you've seen as a litigator how things can fall apart, you can serve your clients better with better drafting up front." Finally, Tracy, the educational services lawyer, also advises, "Make sure you counsel clients. It seems like an obvious piece of advice, but if you're at a really big firm, you might not be counseling anybody, you might be back in some room doing document production, and that's not going to help you going in-house. You need client contact."

Once you've determined that you're ready to leave the law firm, you'll need to think about the industry sector in which you want to work, and here I would caution young associates to avoid being overly swayed by the apparent "glamour" of particular jobs. For example, the comic book publishing house where I first worked had all the trappings of a "fun" job—a casual dress code, a superhero embossed on my business cards, a five-foot-long, inflatable character suspended from the ceiling in my office—but most of my time there I churned out standard licensing and distribution contracts, none of which presented particularly scintillating legal issues. At first, the

thrill of having my weekends free more than made up for any boredom, but gradually I began to feel a bit lost professionally because I was no longer using many of the skills I'd worked so hard to develop at the mega-firm. In contrast, the consumer products company where I worked next was staid and hierarchical, but every day it presented me with a wide range of clients and issues, and I had to quickly get up to speed on areas of the law that were entirely new to me, which kept me engaged and stimulated in a way that the comic book job never could.

Rubinstein agrees that lawyers considering an in-house move shouldn't necessarily be seduced by the external trappings of a particular industry. "Working as a lawyer in a glamorous industry isn't always all that glamorous. The compensation tends to be less in more glittery industries, and the hours are often long. Moreover, the lawyer isn't 'the show,' and may not be as valued or feel like a 'big shot' in the same way that he or she may in a less glamorous company. And the personalities of the non-lawyers may be more challenging in a more glamorous company or industry." Of more importance, Rubinstein notes, is the nature of the issues you'll be asked to handle. "Some of the industries that most people wouldn't think of as glamorous and don't sound as impressive at a cocktail party can have some of the most fascinating legal issues."

Another key factor in one's potential happiness as an in-house lawyer is the size of the company and its legal department, but whether you prefer working at a smaller outfit or large corporation is largely a matter of personality and working style. For someone like me who enjoyed working with lots of different clients, who wanted to specialize, and who liked bouncing ideas off other, more experienced lawyers, the small law firm environment at the conglomerate was ideal. On the other hand, by moving there from the much smaller comic book publisher, I definitely gave up a large measure of autonomy. Not everyone would find that trade-off desirable.

Tracy, who worked at a very large corporation before moving to her current, smaller one, appreciates the benefits of both types of workplaces. At the large corporation, she says, "I liked having lots of different clients and different issues all the time. When I went in-house, I was a little worried that it would be too narrow or sort of boring and it wasn't like that." She also notes that going to the large corporation first, before the smaller one, had its advantages: At the large corporation, she learned a variety of best practices, in everything from human resources to crisis management, that she was able to take with her when she left for the smaller company. But at the smaller company, Tracy now enjoys a greater breadth of experience and closer contact with the business: "Even though I still do my area of specialization, I now do a lot more and feel stronger as an attorney. I've seen so much now that I never would have seen (at the larger company) and I also understand the business much more because it's smaller—I can see all the working pieces. I know the heads of all the different groups, I talk to them all the time, and I know what their problems are. That's rewarding in a different way."

Rubinstein, the recruiter, also sees the size issue cutting both ways: "There is likely to be more mentoring and greater professional support in a larger legal department. On the other hand, a larger legal department may be more hierarchical and a relatively junior attorney may not obtain as much responsibility as he or she would like and can handle. In a smaller legal department, a more junior lawyer may be given substantially more responsibility and interact more regularly with senior executives at the company." But she goes on to note that "a smaller company and legal department may not have as complex or interesting legal issues." So, while one size doesn't fit all, size does make a difference—and only you can decide which environment will be best for you.

In addition to finding the right-sized environment for your needs, it is advisable that you do as much investigative work as you can about any potential in-house employer before making the leap. While it can be difficult to get a handle on a corporation—its culture, its working environment, and its long-term prospects—before you're on the inside, you want to glean as much information as possible from interviews and outside sources to avoid any unpleasant surprises once you get there. For example, I had the misfortune of joining the comic book publishing house just as it was starting to become unprofitable, leading to a period of constant upheaval within upper management. In the two years I was at the company, I served under no fewer than five presidents. Each new president would convene a company-wide meeting to herald his bold plans for turning the place around, while we veterans would nudge each other and roll our eyes, knowing from experience that not long after the poor guy had settled into his new office, he'd be packing up again. Ultimately, the company entered Chapter 11 bankruptcy proceedings while I was there. In addition, it turned out that there was a very distinct divide at the company between the "suits"—lawyers and businesspeople—and the creative department which was, in the end, the life blood of the company. That chasm didn't make for an ideal working environment.

While I couldn't have known all of these negatives going in, I might have asked more pointed questions before taking the job. Karen, the energy lawyer, advises associates to keep their eyes wide open in interviews: "Pay attention to things like what's the reputation of the place that I'm going? What are my colleagues like? Will I enjoy bouncing ideas off of them?"

What are the businesspeople like? Are they smart? Do I like being around them? If there's nobody there that you identify with, the culture of the place is probably not for you."

The way a company's businesspeople view "Legal" can also have a significant impact on a lawyer's day-to-day happiness. Tracy noted that when she first joined her company, which at the time was a small, family-owned business that had only just formed a legal department, she was constantly frustrated because "people were very set in their ways and you'd have to tell them that there's another way to do this, it's really the better way, the right way, the less risky way, the more cost-effective way."

For litigators in particular, Rubinstein counsels, "one important factor may be whether and to what extent in-house counsel litigate themselves as opposed to managing outside counsel handling the company's litigation." They should also ask about "the nature and quantity of the litigation, and whether the company tends to settle cases or prefers to litigate them." And for lawyers in any practice area, Rubinstein also advises that they consider such general factors as the opportunity for advancement; short-term and long-term compensation; the company's growth plans; the financial health of the company; what industry analysts say about the company, including whether the company is likely to be a merger target; the paralegal and administrative support provided to lawyers; the prestige of the company; the stature and personality of the general counsel; the style and personalities of the businesspeople and other in-house colleagues; and travel requirements.

You also need to be aware of the fact that once you go in-house, one of the biggest challenges you're likely to face is learning to think like a businessperson and to tailor your advice to fit the business strategies of your new employer. This can often be a difficult transition for the law firm associate who has been trained over the years to advise clients cautiously. Says Tracy, the educational services lawyer, "You can see that people who have only been in a firm aren't always sensitive and don't always get it. You can't give the ideal conservative advice all the time—you just can't." Elaine, the luxury goods company lawyer, warns, "You may sometimes be pushed outside of your comfort zone. You wouldn't give advice that you think is wrong, but you may sometimes have to say, 'Okay, you can try this, there's a basis for it.' An outside firm can afford to be conservative, and if the company doesn't like the advice, they can disregard it. But inside, you do have to take the needs of the business into account."

In addition to growing more comfortable with managing risk, in-house counsel also has to be prepared to cope with some measure of pressure from the business side. Elaine notes, "At a firm, when you give advice to a company as outside counsel, the client's not going to get mad at you if they don't like it, they're not going to say you're not a team player. It's like you're giving advice in a vacuum. But when you're inside, there's much more pressure to align your advice with the company's business needs, and there's much more at stake for you personally. It's your job as the in-house lawyer to act as a go-between and make the advice of the outside lawyer work for the company's business needs. It's a tougher position to be in."

Elaine also recommends getting up to speed on general business skills to be able to speak intelligently with in-house clients about their concerns. For example, she took a refresher course offered by a university to in-house counsel covering

such areas as accounting for lawyers and securities law issues. Her bottom-line advice: "Get as much information on the business as you can."

Finally, before making a switch from a firm to a corporation, it's important that you consider the potential drawbacks of such a move. While it's a given that an in-house move is likely to entail a pay cut from a law firm salary, there can be other downsides as well. For example, Rubinstein notes that the promise of a better lifestyle doesn't always pan out. She says, "Although I have found that generally there is more predictability with respect to hours in-house because you are closer to the businesses and you may have a better sense of what is coming down the pipeline, that doesn't necessarily translate into better hours." And for litigators in particular, she also points out that the substantive nature of the work may be less appealing. "Probably the biggest difference between a law firm and in-house legal department for a litigator is that in most in-house litigation positions, you aren't actually 'litigating.' Rather, you're trying to avoid litigation and when a matter becomes a full-blown litigation, it's often handed over to outside counsel. An attorney who enjoys litigating may be disappointed with an in-house litigation position. Conversely, if an attorney is considering going in-house at a company where all or most of the litigation is kept inside, the appeal of going in-house—for example, better hours—may not be there."

Another disadvantage of moving in-house, one that I personally experienced at the comic book company, is a sense that one's legal skills are atrophying outside the law firm environment. I recall one day in my second year at the comic book company when I was leafing through some documents I'd been allowed to take from the mega-firm and found a cease-and-desist letter I'd written. As I read it over, I had the oddest

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sensation that it had been written by an entirely different person, one with whom I had no present connection. This letter writer was formidable—articulate, somehow hitting just the right note between politeness and menace, with ample authority at her fingertips to support the position she laid out with seemingly irrefutable logic. (Frankly, the author was scaring me a little; had I been the target of her letter, I would have immediately ceased and desisted from whatever activity she found objectionable with no questions asked.) Seeing that letter made me realize that at the precise moment I'd left the mega-firm, I'd been—for a third-year associate, at least—at the top of my legal game. Every single day there had been a learning experience of one kind or another—however unpleasant at times—and I'd had ready access to the knowledge of hundreds of attorneys who, collectively, had seen and done it all. Now, though, the scope of my work was more limited and my only formal legal training consisted of the few CLE classes I was required to take each year. I realized that I was feeling a little bit lazy intellectually and sensed that I must be falling behind my peers at the mega-firm.

Tracy, too, had a similar experience soon after leaving her law firm. "You don't feel as much of an expert. When I was at a firm, I really felt like I was keeping up with every development in my area, that I was reading all the cases. . . . and being in-house I was very sensitive to the fact that I was losing being on the cutting edge. I lamented it a little bit. I was worried that maybe the five years I'd spent developing an expertise were being thrown away."

Rubinstein says, "I hear this complaint from in-house lawyers all the time. My advice is to keep current on the law by attending CLEs and the like, engaging in legal discussions with friends, particularly those who are at firms, and perhaps trying to take on additional responsibilities in your in-house legal department, even if the trade-off is that you will be working longer hours." In addition, organizations like the Association of Corporate Counsel can be helpful in providing in-house lawyers with the resources and networking opportunities to keep their skills fresh. And, finally, as noted above, a larger legal department within a corporation will typically have more of the advantages of a law firm in terms of legal resources and colleagues with whom to discuss ideas.

Despite these potential drawbacks, not one in-house lawyer in my admittedly unscientific survey had any regrets about leaving a firm. All of them cited an improved lifestyle, with

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work on weekends and nights becoming the exception rather than the rule. In my own case, the mega-firm's 24/7 culture was so ingrained in me that it took me a while to clue into this new reality—shortly after joining the comic book company, I came into the office on a Sunday afternoon to finish a contract and was shocked to find the office dark, unheated, and deserted. (After all, the mega-firm hummed on the weekends almost as much as a weekday; the only difference was the fact that normally well-dressed people suddenly seemed to have no concern about their appearance—dignified older male partners rolled in wearing baggy, elastic-cuffed sweat pants, women walked around with their hair bundled on top of their heads and held in place by binder clips filched from the supply room. It was as though by silent mutual agreement, we'd decided that if we weren't going to have any actual freedom on our weekends, at least we would have the sartorial freedom to let it all hang out.) Despite the creepy silence at the company, though, I stayed in the office to finish the contract and left it on my boss's desk. The next morning, she said half-humorously, but half-seriously: "Listen, I can see you did this over the weekend, and I don't want you to do that again, Okay? We can't have people around here expecting our work this quickly. Now take this contract and sit on it for a day or two before you send it out."

My boss's reaction was not typical, of course, and all of the lawyers I spoke with still felt that their schedules were very demanding and that they were working quite hard. Elaine says, "I feel like I'm working just as hard but it's different from a firm. At a firm, when you finished up a big project like a trial or a deal, you could basically disappear for a day or two or

work a little less hard for a week or so. Here, the pace is always constant—I'm always working hard, at a steady pace and with no downtime."

The key difference for these lawyers, though, is flexibility and control over their schedules. Tracy notes that if she needs to block out time on her calendar for, say, an event at her children's school, she can now do that and the rest of the company will simply work around it. "I have lots of control to come and go as I please. What I like about being in-house is that you just need to get the job done. No one really cares where you did it from or how you did it." And she notes that she's far less likely to completely disrupt her personal life for an office crisis. "If some crazy thing comes in on Friday, outside counsel is probably going to do it." There's also a greater ability in-house to sometimes say no to a client. Elaine says, "At a firm, you felt fearful for your job if you said you couldn't do something. Here if you have the occasional conflict, people will work around your schedule." Tracy concurs. "You can say no a lot more to your client in-house because there are fewer resources and so the expectations are different. There is certainly not the expectation all the time that you're going to drop everything for every single emergency."

Another obvious benefit at the in-house job is no longer having to account for one's time minute by minute. "I was on sort of a high for the first six months, not having to bill," says Tracy. "I couldn't believe it." Not having to bill has other benefits, like encouraging greater efficiencies. "I like finding ways to do things quickly," Tracy says, "and I felt like, in-house, that was finally rewarded. At a firm, you were damned either way you worked—it was either too long or too short, and you always had to think about that." In-house, she notes, it's only advantageous "if you can do something quickly or figure out a better way to do it."

A few of the in-house lawyers with whom I spoke expressed relief at escaping the need to drum up business at and/or manage the business of a law firm, burdens that would have only increased the longer they stayed at a firm. As Tracy put it, "If I wanted to be in business, I didn't want to be in the business of a law firm." And finally, perhaps most importantly, all of the in-house lawyers with whom I spoke unanimously cited the rewards of working closely with a business and being directly connected to and invested in their client's failures and successes. They felt part of a team in a way that hadn't been possible within a law firm.

In my own work as an in-house lawyer, it was gratifying to know that my efforts as a lawyer were directly helping my colleagues achieve their goals and to see our company's products on store shelves and know the concrete ways in which I had contributed to their success. Even in light of the wrong turns I may have made along the way, I share the view of the lawyers I interviewed here in that I never regretted my choice to leave a law firm. Had I not found myself on another career path—writing—I would likely be back at a corporation now working as an in-house attorney. So if this article finds you amid stacks of papers and empty coffee cups, having the same concerns that I once did about the grueling demands of the law firm life, I encourage you to consider the switch as well. But learn from my mistakes and take advantage of the advice I've gotten along the way—don't act precipitously; think carefully about your own needs, likes, and dislikes; and have a realistic understanding of the trade-offs. You're likely to find that, in many ways, the grass really is greener on the in-house side. □