

The Options for Out-Of-Work In-House Counsels

By: Leslie White

What are the options for out-of-work in-house counsels? Let's take a look at law firms, companies, the government, and public service organizations and see what the opportunities and challenges are.

The Law Firm Route: That Door Will Only Open With a Book of Business

The hiring appetite of Big Law remains low and finicky when it comes to in-house counsels. In-house counsels face hiring prejudices from law firms – because they are no longer “specialized,” their legal skills are supposedly not as sharp as their law firm’s counterparts, and they have been off the “track” for too long. Law firms also are weary that because they’ve a taste of life outside the billable world their return to a law firm position would only prove temporary.

Whatever the pretexts or reasons behind the reticence of law firms to hire in-house counsels, they are less likely to hire in-house counsels whom they perceive as a risk. While some, mainly mid-sized and smaller law firms are hiring in-house counsels, there is a catch. These firms are primarily looking for attorneys with a book of business. That’s simply a rarity in the in-house world. Unless one is armed with an attractive portfolio of business, that law firm door remains next to impossible to crack.

The In-House Route: You Need To Be At The Right Place, At The Right Time

While law departments have been trying to reduce expenses by taking on more work in-house, that has not always resulted in additional hiring. Instead, law departments have been stretching already scarce resources and loading existing counsels with more work and responsibilities. If there is a staffing shortage in most law departments today, companies have overwhelmingly adopted a “cautious” approach to hiring.

Some companies are taking the plunge and hiring in-house counsels. Many of the openings come courtesy of retirement – while most of these positions are filled from within, as part of a succession plan – some are open to outside candidates. A few companies are also taking advantage of this market to hire strategic counsels to handle increasing workloads in the areas of patent litigation, intellectual property, compliance/regulatory, and mergers and acquisition. However, the number of open positions is still relatively small and heavily contested.

In terms of market niche, there is still demand in the healthcare and pharmaceutical sector. As a result of industry mergers and an expected health-care overhaul by the Obama administration, lawyers with experience in the industries of health care, pharmaceuticals, biotechnology and medical devices are hot properties. While there are opportunities available, these positions are also becoming increasingly more difficult to land. Unless you have an outstanding background in these areas, you simply will not be considered for these positions.

What does it take to land an in-house position? A good dose of luck, the right connections, and perfect timing. With so few positions available and one of the deepest and most competitive candidate pool seen in recent history, the odds of landing an in-house position resemble those of roulette. Candidates need to be at the right time, in the right place, and know the right people. In other words, they need to know about these positions before they hit the general candidate pool.

The Government Route: Finding a Needle In a Haystack

The perception that government hiring is booming right now is just not accurate. Some lawyer-heavy agencies, such as the U.S. Patent and Trademark Office, are still very cautious with hiring. Others, such as the SEC, are still waiting for Congress to approve funding that will allow them to fill vacancies. Who exactly is hiring remains by in large a mystery. And the electronic applications systems being used to triage resumes are not helping. The computerized process does not provide for subjective analysis of applicants' qualifications, leaving many in the cold.

For those government agencies claiming to be hiring, it is unclear how many lawyer positions are actually open. And when positions do exist, they seem out of reach. As a Michigan law grad trying for months to secure a government position said, "Any job that's public is hyper-competitive. Now, you have people coming from all over for these jobs." In other words, to land a government position is akin to finding a needle in a haystack.

The Public Sector Route: They Are Looking For Money, Not More Lawyers

If would-be public interest lawyers are worried that deferred law firm associates are taking positions that could have been theirs, they are right. After a stunning series of law firm layoffs and incoming associate start-date deferrals in the last few years, some 43,000 third-year students are graduating from the nation's law schools and flooding the public interest sector.

Given the frigid hiring market, new law graduates are taking to the public interest sector like never before. Lawyers with a public interest focus are already feeling the impact of this rush on their own employment prospects. Public interest organizations that were used to recruiting volunteers are now faced with the new task of turning them away. These organizations have more volunteers than they need, and are more interested in generating financial aid than recruiting more lawyers. In-house counsels without the public interest focus, Big Firm stipends, and freshly minted academic credentials are simply left out of the loop.

Other Options: Set Up Your Own Shingle... At Least For Now

What are the options? Clearly, with limited opportunities in the traditional forums of law firms, companies, government, and public service organizations, that leaves out-of-work in-house counsels with fewer choices. One alternative is hanging out your own shingle.

While not everyone is cut out to be self-employed, many in-house counsels tend to have a lot of the qualities required for entrepreneurship. Self-employed professionals are known for being optimistic, competitive, creative and organized. They tend to have a head for business, understand what their customers want, and work with few resources. And if they're passionate about their venture, they work as many hours as it takes to get results. Sounds familiar? Most in-house counsels can probably relate to this.

Hanging your own shingle can represent a new set of challenges, such as financial uncertainty, business development challenges, and accounting responsibilities. Whether or not you can effectively cope with these challenges should be determined early. However, if you have been hitting the pavement for months without any results, this is an option you should seriously consider. This could become a career-altering opportunity, or a productive alternative to riding out the wave until hiring returns to pre-recession levels.