

Choosing Your Practice Area as an Associate

Q. I am a third-year associate at a midsize firm. My practice is a blend of litigation and commercial transactions. My preference is to focus on the transactional work and minimize my involvement in litigation. The partners have given me mixed messages. Although I was encouraged to develop my transactional practice, I continue to receive new case assignments in litigation. These cases take up so much of my time that I can't really devote enough time to the transactional work. The firm's critical need is for a litigator, and it has traditionally been a litigation firm. I want to be a team player, but I also want to ensure that over time I will be able to develop a transactional practice. What should I do?

A. You are very wise to recognize your dilemma. It is not at all uncommon for newer associates to be asked to do work in the area of greatest need within the firm, without regard to the associate's desires to develop a different practice niche.

In fact, many attorneys lose sight of their own goals because they are inundated with cases from the moment they walk in the door. It is also very difficult to minimize your litigation caseload and develop a transactional practice in a firm that is known for litigation. There are a few attorneys who have accomplished this, but they are rare.

Unfortunately, from what you have told me, you may need to make a very difficult choice between staying with your current firm and developing a non-litigation practice. If you stay, your practice will in all likelihood be dominated by litigation. This choice will, of course, be even harder if you are comfortable in the firm and enjoy the camaraderie of your colleagues. Imagine yourself in ten years as a partner - a litigation partner - at your current firm. Would you regret not having developed a transactional practice? If your answer is, "Yes," you would probably be well advised to start looking discreetly at other firms. You do not want to wait too long. The conventional wisdom is that an associate is best able to move to another firm at three to five years. Once you are out more than five years, a new firm would look at you as a lateral and may expect you to bring a partial book of business with you.

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