

USA: Despite recent unionisation in smaller law firms, Big Law associates remain unlikely to unionise

Bloomberg Law, 7 Aug 2023

Big Law partners need not fear **unionization** among their firms' associate ranks despite a recently successful organizing campaign at a premier plaintiffs' firm, industry observers say.

That doesn't mean associates at large corporate firms lack reasons to seek a collective voice to help improve their job conditions.

The work life of **Big Law associates** is often defined by **intense demands and expectations of 24-7 availability** that can take a **toll on their mental health**, observers said. "There basically **aren't limits on what an associate can be asked to do**, as long as it's legal," said Kate Reder Sheikh.

There's nothing strange about lawyers forming unions: legal aid attorneys and government lawyers ranging from county public defenders to federal agency attorneys have done so.

Although National Labor Relations Board precedent on the topic is limited, existing case law presents **no obvious obstacles** that would prevent associate attorneys in the private sector **from unionizing**.

But for associates at large corporate law firms, a range of barriers makes **unionizing** attempts highly **unlikely anytime soon**.

Those hurdles stem from a variety of factors, legal industry observers said. They include the type of people who choose lucrative, high-stress work, frequent associate turnover, and certain fundamental aspects of the legal service industry.

Many who go to work at large corporate firms see their lives as a tournament and are always trying to outperform those in their group, said Peter Zeughauser, chair of a law firm consultancy.

The pressure put on associates at large firms is coupled with **high starting salaries**.

That compensation is part of what makes **Big Law associate a highly sought-after job**, despite the loss of control they have over their entire schedules.

Yet acting individually, **associates** are "relatively powerful professionals" who **can negotiate one-on-one with their firms**—and if they're unsatisfied, they **can move laterally to other firms**, said Eli Wald, a law professor.

Another factor discouraging union campaigns is that **associates often leave their first firms** after a handful of years, either **to join another Big Law firm** or find work in a setting **with more work-life balance**, he said.

Moreover, the main complaint that presumably would motivate unionization—the 24-7 availability at the demand of a client—isn't something that would likely change via collective bargaining because it's **a fundamental feature of the industry**, Wald said.

Although Big Law associate unionizing appears to be a nonstarter for the time being, legal industry observers said there are other private-sector lawyers who are more likely to organize.

The successful union campaigns at Outten & Golden and Segal Roitman suggest that associates may continue organizing outside of the Big Law setting. **Outten & Golden**, a 65-lawyer U.S.-based law firm that represents plaintiffs in labour and employment litigation, said it has **voluntarily recognized a union formed by its associate attorneys**.

The union, Outten & Golden United, was a "logical next step" **given the firm's work representing workers and unions**. "We're very much supportive of the union movement," Klein said. "We're aligned with their interests." It said in a statement that it believes that labour unions are "uniquely situated to **promote workplace democracy, equity, and transparency** throughout the legal profession and beyond." Klein said he did not think much will change in the firm's daily operations. Before the union formed, the firm had an associate committee that provided input on the firm's operations.

The summary

1 – Reasons to unionize

Associates in Big Law firms = subject to intense demands and expectations of 24-7 availability → detrimental to their mental health
= no limit on what an associate can be asked to do (legally exploited)
= help improve their job conditions
= promote workplace democracy, equity and transparency in the legal profession --→ example of Outten & Golden = voluntarily recognized a union formed by its associate attorneys

Moreover “no obvious obstacles preventing associates in private sector from unionizing”.

2 – Reasons why Big Law associates do not unionize

☞ some aspects of the job generally perceived as negative are taken as a challenge

---→ high-stress work or frequent associate turnover= regarded as a competition (only the die hard will stay by outperforming their colleagues) + and as a “tournament”

☞ Some aspects of the job represent a fundamental feature of the industry and not liable to change.

--→ 24-7 availability + workload...

☞ Very lucrative + high starting salaries

☞ highly sought-after job (salaries + prestigious firms)

--→ Instead of unionizing, associates who do not thrive or feel comfortable in a such an environment, they can leave or join another firm with more work-life balance

Commentary

1. Being a lawyer

1.1 The portrait of a big law firm associate

- **highly competitive** = cut-throat competition --→ associates start at the bottom of the firm’s ladder and must work their way up while always being the most efficient

- **committed to his job** = billing hours model = proving their worth by putting in a massive number of extra hours. Dedicated to their job 24-7.

- **make good money** = high salary – material comfort is a priority

- **prestige and social value** may be prioritised over personal growth or happiness

1.2. The other side of the coin

- Work-life balance is disrupted – hard to make time for family or leisure
- mental health dramatically impacted (numerous studies have rung the alarm bell)
- stress, burn out, being overworked, depressed, addiction...

1.3. Should your job be an end in itself? Is it the way you picture your future career?

2. Big Law firms and unionization are two worlds apart. In what way do they represent two opposing ideologies in the US?