

As T&E Competition Intensifies, Is Building and Rebuilding Worthwhile?

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By **David Gialanella** | August 01, 2019 at 03:41 PM

Editor's Note: This is the second article in a two-part series on trusts-and-estates practices at midsize law firms. The first part discussed how practitioners in these areas are expanding and marketing their practices to be more profitable. Read it [here](#).

While trusts-and-estates practice have sometimes been seen as a loss leader—one that large firms have backed away from—there are a number of midsize firm practice leaders who have succeeded in building high-end practices with national clients.

Being more than merely a service practice, they say, is the key to success within the firm.

Still, service is a part of any legal practice, and a law firm cannot service clients if the practice moves out. As new market entrants increase competition for bread-and-butter legal work, T&E practices are no exception from the pressure.

In 2015, Stephen Pagano was part of a group brought in to [Riker, Danzing, Scherer, Hyland & Perretti](#) in Morristown, New Jersey, to rebuild the trusts-and-

estates department, which had mostly left when a group of lawyers spun off to form [Sherman Wells Sylvester & Stamelman](#).

“The firm as a whole is committed to the practice area,” said Pagano, who recently made partner at roughly 135-lawyer Riker Danzig. Probate litigation makes up about half of his practice.

Much has shifted since 2015, including changes to tax law and increased competition from nonlawyers. But it hasn’t hurt, according to Pagano: the firm’s T&E practice now has six lawyers with “a good breadth of experience,” and now handles most of its own probate litigation, rather than referring that work to the commercial litigation department as in years past.

“The main purpose of estate planning is protecting your family,” Pagano said.

“Unique family circumstances drive people more than tax concerns, and I think that’s always been the case.”

Still, even if demand for work hasn’t waned as much as was speculated, trusted advisors come in many forms.

Competition with financial advisors and other types of professionals “absolutely has intensified,” said Marian “Bo” Mehan, co-chair of the estate planning department and a member of the management committee at 150-lawyer [Lewis Rice](#) of St. Louis.

She recalled sitting in a meeting with a client—a longtime business owner who wanted to create a trust after selling his business for \$100 million—as well as an investment advisor. The advisor, to whom Mehan had referred the client, said to the client, with Mehan still in the room, that his investment firm could provide T&E and tax services at a lower cost than the law firm, she recounted.

“Despite that anecdote, we get a lot of referrals ... and we’re busy enough that we’re not threatened by it,” she said of getting poached by other types of professionals.

One way to best the competition is to be a member of the competition oneself.

John Lueken, of the Louisville office of 190-lawyer [Bingham Greenbaum Doll](#), is a CPA who worked for a few years at Deloitte before launching his legal career. He said his tax background has served him well in law. Such a background is “not as common as what you would think” among T&E lawyers, he said. “Clients kind of like it because they tend to think they’re getting two for the price of one.”

And the concept of competition is nuanced, when potential competitors are also potential referrers of business. Lueken noted that his group has a reputation among, and gets referrals from, accountants and financial advisors, as well as other attorneys. “The centers of influence for those clients tend to know us,” he said.

Even with lawyers at other firms, there are considerations, according to Mehan and fellow practice group co-chair Michael Mulligan. Mulligan said that when they are referred work from lawyers in other cities, they make a point to be courteous about that client’s non-T&E work, and refrain from pushing other departments at Lewis Rice to try to pry that work away from the referring firm.

“We have not poached anybody’s client, that I can remember, in that fashion,” Mulligan said.

Mehan quipped, “sometimes we get in trouble for that,” with their firm’s litigators or corporate lawyers who would like a crack at winning their share of the referred client’s work.

As in any practice, lawyers are competing not only for work, but for talent. Even T&E practices that aren’t in rebuild mode are recruiting—perhaps more actively than lawyers in other practices realize.

Lueken noted that his firm currently has a summer associate in his practice, as well as a recent full-time hire who previously spent two years there as a summer associate.

The T&E practice at Lewis Rice has two young associates, and has had as many as 12 or 13 lawyers in recent years, though it is now coping with some partner retirements, as well as one partner's untimely death, Mehan and Mulligan said.

"We are constantly looking" for new talent, Mehan said. "I think we're still understaffed."

With an abundance of work and active hiring, practitioners said their practices are doing well. And they also say they're optimistic about the practice's place at law firms moving forward, particularly midsize firms.

Abby Wool Landon, head of the T&E group at Portland, Oregon-based [Tonkon Torp](#), said even large firms are building their wealth-management practices, where T&E work figures in heavily. She named [Perkins Coie](#) and [Day Pitney](#) as examples of firms pursuing that strategy and building robust practices. "And that's my goal at Tonkon," she said.

Pagano pointed out that trusts and estates is a natural practice for generating referrals. T&E practitioners get face time with clients up front, and, "at the end of an hour meeting, I know a lot about them," he said, adding that the practice is "definitely a value to a firm our size."

Mehan went a step further.

"Estate planning is one of the most stable future areas of the law," she said.

Unlike, for instance, corporate practice, which is a capability that legal departments have brought in-house more and more in recent years, trusts-and-estates work will

remain the province of trusted outside counsel providing a personal service, she said.

"You form these relationships with these wonderful, wonderful clients, and they want you," Mehan said. "They stay because of their relationship with you."