

# 5 Firms Take Bold Approaches

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By Susan Saltonstall Duncan

## **BARTLIT BECK, 70 lawyers**

*“Quality is not scalable in law; to the contrary, size and the consequent hourly model inherently dilute quality.”* —Fred Bartlit

**In the late 1980s**, Fred Bartlit and a few partners formerly at Kirkland & Ellis puzzled over the disconnected assumption in big firms: The more hours a project took, the more lawyers involved, the more depositions, the more stones turned, the better the quality of the work product. This resulted in a devaluation of experience because associate leverage and metrics on utilization and profits took priority. Bartlit and his colleagues knew that wasn't right and formed their new firm where the mission of the firm is quality. Even though Bartlit Beck only does bet-the-company cases and deals, the focus is on using the best lawyers for the best results, finding that using the best approaches often results in reaching favorable outcomes much more quickly. “We didn't do this for the money,” says Bartlit. “When we left Kirkland & Ellis, we left everything behind (including our financial security) and started from scratch. We assumed we wouldn't make as much money but we'd be happier.” The cornerstones of their model were established to consistently bring quality and value to clients:

### **Hiring and Training**

The firm hires only one or two star associates a year. But “star” doesn't just mean intelligent, according to Bartlit. The firm is loaded with Supreme Court clerks and graduates who were top-ranked in their classes. But for every lawyer the firm hires, there are hundreds of similarly credentialed applicants who never receive offers of employment.

The firm only hires people who, in addition to being smart, have other critical qualities, such as an interest in activities outside of work, the ability to listen and empathize, and the desire to be the best they can be. They want to get to the top and they are willing to work hard, take some risks and learn in order to get there. In addition to wanting to work in this collaborative environment, Bartlit says, “We tell them, ‘You must be the person you would want to hire.’” They must read everything about the client in the press, understand the client's issues and perspective, and get to know their counterparts at the client's place of business.

The firm trains constantly, formally through Bartlit Beck University, but more continuously through shadowing and mentoring. The firm looks for opportunities to provide good jury trial experience for young associates by doing trial work for smaller companies or public entities on a pro bono basis. The firm also creates opportunities for associates to act as lead attorneys in jury trials, with the partners mentoring them step by step.

The feedback from clients has been positive. Jennifer Sherman, senior vice president, CAO, GC and secretary at Federal Signal, says, “Bartlit Beck has done an outstanding job developing the

next generation on both the litigation and transactional side. They have introduced me to their younger lawyers, all of whom have been outstanding. So now I tell them, ‘I don’t care who you put on the case!’”

## **Pricing**

The firm does no hourly billing but rather enters into fee agreements that reward results and efficiency. The partner meets with clients, and together they estimate what it would cost to proceed with litigation. For example, if a case is going to cost a client about \$300,000 per month for a three-year period, Bartlit Beck proposes to bill them \$200,000 per month, and the additional \$100,000 goes into a reserve fund, which at the end of three years, would equal \$3.6 million. At that point, they say to their client, “Based on the result, you can pay us the full reserve or a multiplier of two, three, or five times the reserve.” They leave it up to the client to decide.

It is not uncommon for the firm to get multipliers of three to five times the reserve. Sometimes the more traditional GCs don’t understand this model and aren’t comfortable with it. They offer to pay the firm ridiculous hourly rates, but because the firm doesn’t do work on an hourly basis, “if the client isn’t comfortable with our flat-fee structure, we don’t take the case.” Tom Sager, senior vice president and GC of DuPont, says he is comfortable with it and lauds the firm’s pricing approach. The firm, which takes on very complex, high-risk cases for DuPont, has earned a high multiple of the hold-back amount on many occasions. In a series of extremely challenging class-action suits, Bartlit Beck got highly favorable results—the class actions were dismissed quickly and completely. Sager says, “We were thrilled, and consequently felt it appropriate to pay a premium. If we had lost just one of the 24 cases, we could have been in big trouble.”

## **Culture, Camaraderie and Trust**

The firm’s office in Chicago is housed in an old courthouse. The offices have exposed brick, and the former central courtroom is now the mock trial and training room for Bartlit Beck University. There is nothing pretentious about the space, and it embodies the essence of history and character. (It also happens to be a bargain at \$23 per square foot, hence low overhead costs.) There is a gym several floors above, where many of the lawyers can be found at different times during the day. The firm believes that being the best you can be includes attention to health, fitness and balance with outside activities and interests. Lawyers aren’t in the office at night or on weekends; they are with their families or spending time outdoors. It doesn’t mean they don’t work hard; they must for the type of work they do. But they have control over their own schedules.

In the Denver office, there is a climbing wall in the reception area. This is to be used, but also symbolizes the belief that there are many paths to the top—there isn’t just one way to do things. The firm strives to hire only people who have their own opinions and will try different approaches to solve problems. A lengthy quote from Teddy Roosevelt about persistence and effort and the willingness to fail is prominently etched on a wall outside the training room for all to remember. In essence, the message Bartlit Beck imparts is that its lawyers must take risks and make mistakes to learn on their climb to the top.

At 70 lawyers, the firm is intentionally relatively small. The core leaders know everyone in the firm—their skills, backgrounds, families and interests. The firm is managed by one partner who

makes all decisions on expenses, revenues and compensation. There are no committees. Instead, if someone has an idea for doing something differently or better, he or she becomes a committee of one to pursue the idea. And while the firm does not employ a formal approach to project management, its focus on quality, process and achieving the best result as expeditiously as possible often brings better results for clients than the approach most law firms take, which focuses on hours and productivity.

### **Can Traditional Firms Follow the Bartlit Beck Lead?**

Firms can adopt these practices if they are willing to turn much of the traditional model upside down:

- Focus on high-quality results and on being the best you can be.
- Get rid of the billable hour altogether to focus on best outcomes and efficiency.
- Use small teams with experienced partners.
- Hire only a few associates and only those who have clear potential to become a partner. Then mentor them constantly to get there.
- Collaborate and look for new approaches.
- Deliver value, and ask and allow clients to pay accordingly.
- Stay small, nimble and like a family, and encourage everyone to be healthy and fulfilled.
- Build trust, camaraderie and an environment of continuous pursuit of quality.
- A tall order, to be sure, but one to aspire to.

About the Author: Susan Saltonstall Duncan is the founder and president of RainMaking Oasis Inc., a consulting firm that helps law firms create and execute effective strategies in business, practice and client development, focusing on how firms can adjust to the “new normal.”