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Young Trial Attys Face Tough Hurdles To Logging Court Time

By **Natalie Rodriguez**

Law360, New York (March 18, 2016, 5:36 PM ET) -- When it comes to logging solid courtroom experience, young litigators often find client pressures and senior partners standing in their way, but there is a growing movement to shine light on this issue to get them more time in court, according to experts.

Litigation in general is struggling as clients seek to get the most bang for their buck from law firms and as work dwindles into a smaller pool to be shared across attorneys. This, in turn, can worsen a decadeslong tradition of giving younger lawyers short thrift when it comes to courtroom time.

But lately, there have been some movements toward creating new opportunities for the more inexperienced ranks, from judges shining a light on the issue to others in the legal field pushing to offer juicier roles to young attorneys, according to experts.

"I think that's just the new way of looking at things. It's not how it used to be," said Beth Devlin, a partner at EDGE Litigation Consulting LLC.

Most recently, U.S. Magistrate Judge Paul S. Grewal made headlines **by urging veteran trial counsel** in a trade secrets suit he was overseeing to let younger attorneys argue in a slew of post-trial motions.

"It is difficult to imagine handing entire intellectual property trials to a generation that never had the chance to develop those skills in more limited settings," the judge said, adding that if the parties did not elect to allow associates to present their arguments on at least two of six motions set to be heard, he would decide all of the motions on the papers without argument.

His request echoed efforts made by U.S. District Judge Barbara Lynn for the Northern District of Texas, who told Law360 last year that **she uses a "standard order"** adapted from one used by U.S. District Judge William Alsup in California that reminds litigants to be mindful of courtroom opportunities for young lawyers. In one such order from February 2015, setting a hearing on a motion to dismiss, Judge Lynn wrote that she was particularly interested in hearing from young lawyers who drafted or made other contributions to an underlying motion or response.

These efforts from judges shine a light on how difficult it can be for young lawyers to score courtroom experience.

"You could be a junior partner at an AmLaw 100 firm and not even take a deposition," Gloria Sandrino, a principal at recruiting firm Lateral Link, said in an interview last month

on why some **government lawyer hires** can be appealing to law firms looking for laterals with trial experience.

Most often, the hurdles that young BigLaw attorneys come across in getting court time are imposed by clients, according to experts.

"I have worked with very capable younger law partners who have expressed frustration because their senior partners tried to give them a more prominent role in a trial, only to be vetoed by clients, who insisted that the 'important' work be delegated to senior lawyers," Devlin said. "This is often the case in high-stakes litigation, where the corporate client is especially sensitive to ensuring a strong performance in trial."

Sometimes, though, the resistance comes straight from those sitting atop the legal team hierarchy, experts noted.

"Sometimes, we encounter senior lawyers who are reluctant to share the spotlight with younger lawyers or who do not invest enough time to help younger lawyers build and grow a relationship with clients," Devlin said.

These issues are not new. Devlin noted that she had partners expressing frustration with the lack of courtroom opportunities as far back as 15 years ago.

"It was sort of seen as a rite of passage," she said.

But with the traditional path to partnership having been upended over the last few years, Devlin thinks some young lawyers are getting more vocal about wanting courtroom time and competing with the ever-larger masses of associates for those opportunities.

Some firms are responding. The relatively new litigation boutique Hueston Hennigan LLP, for one, has made a commitment to get all of their young associates some trial experience quickly, Peter Zeughauser of legal consultancy firm Zeughauser Group LLC told Law360 **last year**.

And younger attorneys — perhaps not those fresh out of law school but those in their late 20s and early 30s — are getting more of a shot in some trials, according to Russell Mangum III, a senior vice president at economic consultancy Nathan Associates Inc.

"It's less frequent that the senior older attorney is the one working with me, prepping with me and then doing my direct testimony. ... It was in the past when I would work with someone younger, and then, when I went to trial, it would be a senior attorney [conducting testimony]," said Mangum, though he noted that those opportunities are more common in IP trials than the antitrust cases he has mostly worked on over the last two years.

In Judge Grewal's recent case, in which he urged veteran counsel to give younger counsel a shot at court time, the parties' counsel — DLA Piper LLP and Ruyak Cherian LLP — had the judge decide the motions on paper rather than put forward associates. A member of the DLA Piper team, however, contended to Law360 that was a route the parties had been discussing since before the judge issued his order.

"We applaud Judge Grewal's commitment to finding opportunities for associates in his courtroom. It is a commitment we share and one we have embraced throughout this case," said Andrew P. Valentine, a DLA Piper partner on the team, noting that associates have had opportunities to earn courtroom experience.

Among these opportunities were having DLA Piper associates argue dispositive motions and taking depositions.

"In addition, two of the trial lawyers who examined the lion's share of witnesses at trial are recently promoted partners. As we have done throughout this case, we will continue to showcase young talent and find opportunities for young attorneys to appear in court," Valentine said.

There are also some advocates behind the scenes pushing for talented younger attorneys to get a shot at courtroom time. Devlin, for one, tries to make a point in letting corporate clients and senior lawyers know when she has spotted a talented young attorney and drops a few words of encouragement to have them get a chance to grow and demonstrate their capabilities in the courtroom.

"I like to be very vocal when I see a really good lawyer," Devlin said. "You don't always see that. Some established lawyers ... may not necessarily be the best storytellers."

--Additional reporting by Brandon Lowrey and Andrew Strickler. Editing by Christine Chun and Philip Shea.

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