

# THE DISAPPEARING EQUITY PARTNERSHIP OFFER

## THE CORE ASSET: PERSONNEL

SERIES - 1 / ARTICLE - 2

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## Thinking of making a lateral move to a new firm? The 'Three Ps' may no longer be what they used to be.

While Prestige, Partnership, and Pay are still attractions offered by law firms, 'Partner' no longer means what it once did, and along with that change comes a possible diminution in Prestige and Pay.

### The Holy Grail of the Legal Profession

'*Making Partner*'. It is what every first-year associate grunt has in their sights from when the offer from a new firm is accepted. The first step to achieve in climbing the ladder from associate to partner is the *rung of the non-equity partnership*. Here, the benefits of being a law firm employee mean that compensation will be through a W2 salary consisting of a base plus bonuses. In addition, the firm pays additional benefits, such as health insurance, which is the same as for any employee. However, there is no share in the firm's profits, the non-equity partner generally has no say in the decision-making processes affecting the firm, and job security is not guaranteed.

### Advantages of Becoming an Equity Partner

Among the advantages of becoming an equity partner (also referred to as an income partner) is the financial aspect: participating in firm-wide profits will yield 'outsized' financial rewards far above those of the non-equity partner. In addition, the equity partner enjoys 'origination credit' remuneration. This means that the partner is rewarded for bringing new clients to the firm even if the equity partner did not represent that client on an ongoing basis and another firm employee handled the client's interests. When determining which non-equity partners will be offered an equity position, firms place significant weight on the amount of business the candidate has brought to the table.

But beyond financial rewards are voting rights within the firm, thereby giving the equity partner a voice in its governance, including crafting formulas for compensation. Like any other partner in an equity partnership, the law firm equity partner receives remuneration by way of Schedule K-1 distributions.

### And then there are the Disadvantages...

So why *wouldn't* a non-equity partner strive to become a full equity partner? First, there is the cost: the increased prestige, pay, and power come at a considerable price in the form of a required capital contribution, often in the range of **25%-35% of annual compensation**. At some 'Big Law' firms, an equity partner's capital contribution can be as high as 50% of their compensation. For a young attorney, at the developing point in a law career, the required sum to 'join the club' can be a significant financial hit and even an endgame obstacle.

Upon leaving the firm, getting one's capital contribution back at a later point can also be fraught with problems, as many firms have partnership rules proscribing a return of those funds until years after the partner's exit. A more minor yet notable disadvantage is that equity partners generally pay for their own benefits. Then there is the risk factor. It is not just the profits that the equity partner shares but also the firm's liabilities, to the extent that the firm's structure might expose its equity partners to third-party claims.

## Executive Summary

### 1. The Issue

While partnership status in law firms is still considered invaluable, equity partnerships are losing their appeal among young attorneys.

### 2. The Gravamen

Capital contributions and the financial stress of becoming a 'part owner' in the firm make equity partnership statuses a risky proposition. Additionally, equity partners must be born businessmen and be able to generate business for the firm.

### 3. The Path Forward

The 'non-equity' partner – a recognition of hard work and effort without the 'hard pressures' of the job.

## The Appeal of Non-Equity Partnerships

After considering the benefits and downsides, many non-equity partners opt to remain in that position. Avoiding the enormous capital contribution required is a prominent factor. In some cases, there are opportunities to invest that money in a more flexible and liquid investment, even if that means preceding the firm's partnership prestige and profit-sharing allure. However, even for those who have already achieved equity partner ranking at their partner firm, the decision to forgo equity partnership when making a lateral move can also be appealing. Such a move might be part of a pre-retirement departure from the current firm or the overall 'simplicity' of a non-equity arrangement making the change attractive.

Creative compensation packages can work to the benefit of the non-equity partner and the law firm if the former receives a percentage of the origination credit without tapping into the firm's profitability. As for the voting 'power' aspect, in truth, many firms are relieving equity partners of the decision-making role and leaving such governance in the hands of a small committee or even handing those reins to a manager.

## The Trend Towards Non-Equity Partnership Offers

According to a recruiting professional at one global lawyer placement

organization, legal recruiters now see top-tier candidates who would usually have been offered an equity partnership are now getting non-equity positions. This pool of candidates includes highly experienced government lawyers and current equity partners in the midst of making a lateral move. The trend toward making non-equity partnership offers is, in part, because it is deemed to put the firm at less risk in bringing on the new partner. Recruiters are therefore encouraging lawyers to consider whether the new prospective firm provides a good fit overall—including compensation—rather than focusing on the title of the position.

A recent analysis by ALM Intelligence revealed that in 81 of the 151 firms surveyed, participants in non-equity partnership tiers grew in 2020. Of these, 51 saw growth of over 5% in the non-equity level, and this trend was most distinct among the Am Law 50 law firms. Overall, the increase in the ranks of non-equity partner tiers continues to multiply, while at the same time, the equity partner sector continues to shrink.

## A Changing Culture

Whether primarily caused by law firm interests or by partner preference, it is clear that law firm structure and culture are in the midst of a significant change. As non-equity offers become the norm, lawyers looking to make a lateral move will have to adjust their expectations regarding prestige, power, and pay and their traditional notion of what a 'partner trajectory' means.

**“PARALEGALS ARE OFTEN HIRED FOR INTENSIVE SUPPORT ROLES WITHIN AN ATTORNEY’S CASELOAD....”**

**...A WIDE RANGE OF TRULY SUBSTANTIVE LEGAL WORK CAN NOW BE LAWFULLY ASSIGNED TO A PARALEGAL”**

## Action Items

### 1 A risk-reward analysis:

Whether you are a name partner determining a promotion philosophy for your firm or if you are a 'partner track' associate deciding your next move, all the benefits and pitfalls must be considered—financial contributions, voting rights, compensation goals, professional development, etc.

### 2 Taking up leadership:

Outside of the hefty capital contributions, leadership potential is essential to weigh in any partnership discussion. While non-equity partners are, of course, leaders in their domain, an equity partner must ably leverage their status as a partner to bring in new clients in order to grow the business even further, which is incentivized by an 'origination credit'.

### 3 Creative compensation arrangements:

A title is nothing without appropriate financial compensation, which recognizes an employee's status inside and outside the firm. Money should accompany the status if a firm decides to appoint non-equity partners.

### 4 Dividing leadership tasks:

Larger firms beget larger pools of partnerships, leading to the segmentation of leadership tasks related to voting, firm initiatives, business development, etc. Governance councils within the partners effectively distribute responsibilities between the equity and non-equity partners evenly.

### 5 Accepting the change:

Supporters of the traditional viewpoints on law firm leadership may be averse to accepting partners who do not hold a 'personal stake' in the business. But the market is often dictated by the needs of the workforce. Therefore, a firm should not sacrifice an esteemed attorney from joining their partnership for formalized reasons. What ultimately matters is the firm's growth strategy and the value a non-equity partner can bring to the business.

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## Further Readings

1. <https://budgeting.thenest.com/equity-partners-vs-nonequity-partners-31880.html>
2. <https://www.mlaglobal.com/en/insights/articles/so-they-offered-you-non-equity-partner>
3. <https://abovethelaw.com/2021/08/is-it-better-to-be-an-equity-partner-or-non-equity-partner/>
4. <https://www.jdsupra.com/legalnews/not-all-partners-are-created-equal-a-7136140/>
5. <https://www.techlawcrossroads.com/2021/03/non-equity-partnerships-and-the-changing-law-firm-culture/>
6. <https://www.lawpracticetoday.org/article/law-firm-origination-policies-climbing-mountain-equity/>



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After receiving his Juris Doctor degree from The John Marshall Law School in Chicago, Mr. Brochin served as an Administrative Law Judge with the Illinois Department of Labor for six years where he presided over cases dealing with job separation issues and matters pertaining to contested Unemployment Insurance claims. He also co-wrote the agency's administrative rules, and periodically served as a 'ghost writer' for Board of Review decisions. Following that position, he was Director of Development for a Chicago-area non-profit college where he was responsible for High Net Worth donations to the institution. For the next eighteen years he practiced as a solo practitioner attorney with an emphasis in the fields of Real Estate law and Commercial Contracts transactions, and was an agent for several national title insurance agencies.

In 2003 he was recruited to head up a U.S. title insurance research office in Israel, a position he held for four years, and between 2007-2017 he participated in litigation support for several high-profile cases. He has taught Business Law as a faculty member of the Jerusalem College of Technology, and has authored a wide variety of legal White Papers and timely legal articles as a professional legal content writer for GPL clients. Separate from his legal writing, he has co-authored academic articles on Middle East security topics that have been published in peer-reviewed publications.



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William Anderson is Managing Director and Head of Law & Compliance. He leads the GreenPoint practice in providing regulatory, legal, and technology solutions to law firms, legal publishers, and in-house law departments around the world, overseeing our team of experienced US attorneys and data and technology experts. Will has over 25 years' experience working with corporations to improve the management of their legal and corporate compliance functions. Will began his legal career as a litigator with a predecessor firm to Drinker, Biddle LLP. He then served as in-house counsel to Andersen Consulting LLP, managing risk and working with outside counsel on active litigation involving the firm.

Will has leveraged his legal experience interpreting regulations and appearing before federal (DOJ, SEC, FTC) and state agencies (NYAG) to oversee research and other areas at Bear Stearns. In this capacity, he counseled analysts on regulatory risk and evolving compliance requirements. Will also consulted on the development of a proprietary tool to ensure effective documentation of compliance clearance of research reports. Will then went on to work in product development and content creation for a global online compliance development firm pioneering the dynamic updating of regulated firms' policies and procedures from online updates and resources. Will holds a Juris Doctorate with High Honors from the Washington University School of Law in Saint Louis and is admitted to state and federal bars. He lives in Pawling, NY, with his wife and daughter.



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