

Gibson Dunn Lawyers Discuss Their Decision on Returning to Private Practice

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Abdul Kallon has a resume that plenty of his partners at Perkins Coie would love to have: He was a federal judge for a dozen years.

But since leaving the bench last year and rejoining private practice, Kallon has found that he needs his partners' help to succeed at something he's not done for over a decade: "business development." Building a book of business takes time, even for a former federal judge.

Most of Kallon's contacts from a previous stint in private practice are useless toward that end, he said, having either retired or moved into new roles. He didn't do marketing as a federal judge. He was cloistered away from most of the legal profession, isolating himself to avoid the perception of bias.

Even if he brings a rare skillset to clients' disputes—a personal understanding of how judges might view their case plus his own trial chops—he is, for now, largely reliant on his partners to bring him into cases or introduce him to clients.

"You essentially have to start from ground zero," said Kallon, who was nominated to the bench by President Obama in 2009. "It takes a while for relationships to gel and foster to the point where people will call you routinely."

Kallon, 54, is among a wave of former federal judges who resigned from the bench for Big Law over the past two years. The judges were all appointed at relatively young ages and are in their late 40s or mid-50s, meaning they still have long working lives ahead of them.

They're different from retired judges, who often take part-time mediator jobs or serve as a sort of figurehead in law firms. They're looking to build their own practices.

"We're going at it as hard as any of the other partners," said Gregg Costa, who joined Gibson Dunn & Crutcher in September 2022 after leaving the U.S. Circuit Court of Appeals for the Fifth Circuit.

These transitions are likely to become more common. Presidents have been appointing judges at younger ages, and those who take the bench before age 45 resign before reaching senior status at a disproportionately high rate, according to research from The Vetting Room, which tracks judicial nominations. During the Bush I, Clinton and Bush II administrations, roughly 11% of judges nominated at the age of 45 or younger resigned before reaching senior status, compared to about 2% for judges who were nominated at above 45.

Dating back to at least 2009, when a federal judge resigned citing a need to support his seven kids, many departing judges cite the discrepancy in pay between federal judges and law firm partners. US district judges will earn \$243,000 this year. Partners at many firms earn 10 times that amount, and the gap is likely to grow as law firm profits surge.

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For the law firms and their partners, putting a former federal judge in front of a client no doubt burnishes credibility. Former judges have a rare perspective that they say clients and colleagues often seek out.

But to maximize their earning potential, the judges will need to win business. Originating work is the coin of the realm in private practice, and it's a skill these new partners haven't practiced in a decade or more while they served on the bench.

"The work comes to you on the bench. People file lawsuits. It doesn't work that way in a law firm," said John Gleeson, a Debevoise & Plimpton partner who has a bit more perspective on the transition. He resigned from the Eastern District of New York in 2016, a position he held since being nominated by President Clinton in 1994.

"It's a very competitive profession we're in, and there are a lot of really good lawyers out there doing it. So you have to learn how to be more entrepreneurial. You don't have a single entrepreneurial bone in your body when you're on the bench."

No Longer 'Judge'

In interviews with four former judges who joined Big Law as partners in the past two years, the judges made clear the transition is about more than just trying to win work. And they all lauded their partners for helping to introduce them to clients and get work on cases early on.

They're no longer called "judge." Most insist the title should be retired upon resignation. They travel more, flying across the country to meet colleagues, clients, or attend conferences.

And they've been through the low stakes but nerve-wracking test of trying out old skills, like taking a deposition or addressing a judge, for the first time in a decade or more.

"I remember the first deposition I took on this side of things, and there was a certain nervous energy I had: 'Boy, do I remember how to do this?'" said George Hazel, 48, who resigned from the US District Court for the District of Maryland to join Gibson Dunn a year ago. "And then at some point it did click in and it felt a little like riding a bike."

For former judges, Gleeson said great expectations can make it difficult to appear back in a courtroom for the first time. Colleagues often set a high bar, expecting to be wowed by a former judge's skills in a courtroom, he said.

"And then you have the experience that everybody else has, you get beat up a bit," he said. "For me, that took some courage, because it's humbling. Federal judges are not used to being humbled. Once you come off the bench, you better get used to it and it's not easy."

Finding Early Work

While most of the judges are just getting started on the sales and marketing aspect of a law firm partnership, they've all made appearances for major clients. Their first order of business in generating work is to build relationships with their new partners.

Gary Feinerman, who joined Latham & Watkins last year after resigning from the Northern District of Illinois, has appeared in cases on behalf of Meta Platforms Inc., online retailer Temu, and Instacart, according to court dockets.

He credited his partners for plugging him into cases, and said he'd also brought in some work of his own.

"It's very important to be present and connect with people to remind them that I'm here

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and talk about the kinds of things that we can work on together,” said Feinerman, 58, who was nominated by Obama in 2010. “Fortunately, the culture’s so collaborative that colleagues were very generous in terms of plugging me into matters where I’d have something to add.”

Costa and Hazel are taking a unique marketing approach. The Gibson Dunn partners last month launched a podcast, “A View From the Bench,” that discusses their careers, their return to private practice, and the state of trials in America.

Costa, 51, has already argued two cases, including in bankruptcy court and an arbitration, he said. His earliest cases were the result of partners bringing him onto pitch teams, he said, though he’s had some success generating his own work.

Getting early trial work validated why he went back to private practice (to try cases), and it knocked off some rust, he said.

“And it’s nice to tell clients it’s something I’ve done recently,” said Costa, whose nomination to the bench by Obama was approved in 2012.

Mindset Shift

After resigning from the bench in Birmingham, Alabama, Kallon moved to Seattle, where his wife took a job. He chose Seattle-founded Perkins Coie in part because of its longstanding relationships to major clients in the area. He’s part of a team defending Google Inc. against claims brought by the Republican National Committee that the search giant throttled its email marketing messages.

The shift in mindset to promote himself and ask clients for work was “initially not as easy as I expected,” Kallon said.

“There are some very, very good lawyers out here in the private sector who’ve delivered extremely well for their clients,” he said. “So I need lawyers in my law firm introducing me to their clients and I need to convince these people they’re introducing me to that I’m equally as capable.”

One possible challenge for former judges is they haven’t developed a specialty in a particular area of law the way plenty of Big Law litigators have. They are generalists with trial expertise.

But they have the benefit of being seen as a unique resource for insights on how judges might treat a case.

Feinerman said clients or colleagues at Latham often ask him how a judge might respond to a certain case: “If you were the judge, how would these legal issues or these facts hit you? What would be the inflection point for you?”

And he’s been asked to oversee mock trials or moot courts from lawyers at other firms.

“I still get to play judge even if I’m not robing up to actually sit on the bench,” he said.

Costa said he teams up with specialists to make pitches to clients. His partners will advise clients on an area of law they’ve practiced in for 20 years, and he’ll provide the perspective of a potential judge or jury.

“It makes an effective pitch,” he said.

Hazel, nominated by Obama in 2013, said he wants to remain a generalist but he knows lawyers gain reputations and new business based on their previous success.

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"Business is business," he said. "You hope you're successful in one type of case, and if that causes someone with a similar problem to come to you, that's kind of how you build a business in this industry. I'll go where the business takes me."

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