

THE AMERICAN LAWYER

www.americanlawyer.com

JULY 2007

ALM



SOLID GOLD

THE ROAD LESS TRAVELED

*Stellar pro bono and satisfied
associates make Patterson Belknap
an A-List perennial.*



*Stellar pro bono and satisfied
associates make Patterson Belknap
an A-List perennial.*

The Road Less Traveled

By Ross Todd



ISA CLEARY IS PURE KINETIC ENERGY.

The Patterson Belknap Webb & Tyler partner spins in her desk chair to retrieve a document from her office shelves. She whirls back with a checklist in hand. The list has about 50 specific categories—taking and defending depositions, working on a preliminary injunction hearing, and so on—and either Cleary or the other assigning partner in Patterson’s litigation department will complete one for each of the firm’s 70-plus litigation associates. Twice a year, associates sit down with an assigning partner for about an hour to run through the list and set out their goals: Patterson partners say that associates who chart their own development are more likely to be happy associates. This particular checklist is scribbled with Cleary’s notes tracking an associate’s progress. “These are things we would like every associate to have the opportunity to do over time,” says Cleary, who in addition to assigning cases and counseling associates manages a full caseload of her own.

And did we mention that she also heads Patterson’s pro bono efforts? Cleary matches Patterson lawyers with requests, frequently urgent, from the firm’s pro bono clients. The firm’s goal—which it has met for the last three years—is to get every one of its lawyers to participate in pro bono work.

Her list of responsibilities puts Cleary at the fulcrum of the successes that have made Patterson an annual presence on our A-List since its inception in 2003. Pro bono and associate satisfaction anchor Patterson’s A-list scores: The firm received 199 points (out of 200) in pro bono this year; and it finished seventh in *The American Lawyer’s* Midlevel Associates Survey, by far the highest of any New York City firm. With 180 lawyers sharing both a single office and a dedication to the values of hard work and public service, Patterson can indulge in the luxury of

Patterson Belknap Webb & Tyler

Lawyer Head Count*	171
Equity Partners*	59
Gross Revenue	\$141,500,000
Profits Per Partner	\$1,040,000
Revenues Per Lawyer	\$825,000
Total Pro Bono Hours	20,407
Average Pro Bono Hours per Attorney	119.34
Percentage of Attorneys with More than 20 Hours	91.81

Top clients include: Johnson & Johnson, Abbott Laboratories, Dow Jones & Company, Inc., Rockefeller Brothers Fund, United States Tennis Association.

*Am Law 200 numbers. Firm now has 180 lawyers and 60 partners.

an extensive pro bono program and intensive professional development training for associates.

Still, great pro bono and happy associates don’t necessarily add up to high revenues. This year Patterson’s revenue per lawyer grew only from \$820,000 to \$825,000—knocking the firm’s RPL score from 169 to 157. Patterson’s profits per partner actually took a step back, dropping from \$1.135 to \$1.04 million.

The A-List isn’t just a report card on firm statistics. It’s a measure of how well firms balance moneymaking with the priorities of service and collegiality that used to distinguish the legal profession. Patterson partners recognize that it’s a delicate balance. “The biggest challenge for us is economic, because competition for business is fierce,” says outgoing managing partner Rochelle Korman, a partner in the firm’s tax-exempt practice. “But we also don’t want to become a sweatshop.”

The firm has tweaked its formula in the past: Patterson

weathered a rocky financial phase in the early 1990s, even going so far as considering a merger. But partners say the firm now has a solid base of litigation clients—notably Johnson & Johnson, Abbott Laboratories, and Dow Jones & Company, Inc.—and one of the nation's most prominent tax-exempt organization practices, representing The Frick Collection, the Rockefeller Brothers Fund, and the United States Tennis Association, among others. To hold onto its spot on The A-List, the firm has to compete with 1,000-lawyer megafirms for business without sacrificing pro bono hours or associate satisfaction. Thus far Patterson partners have been able to pull it off, but they know that maintaining their place will take constant attention to detail.

CLEARY, A WISPY 49-YEAR-OLD with short-cropped dark hair, says she learned values by watching her parents. Her mother, who worked at Duke University's medical center, and her father, a teacher and coach, were always opening their home to people in need, she says. "My parents taught me that life is short; you'll be remembered for the good you've done," says Cleary, one of eight siblings.

With Cleary heading the firm's pro bono program, Patterson has achieved a memorable feat: Not only has every lawyer at the firm engaged in pro bono or public service in every year since 2004, all *partners* have participated going back to 2002. The firm averaged almost 120 pro bono hours per lawyer last year, with more than 90 percent of the firm's attorneys spending at least 20 hours on pro bono work. Lateral partner candidates are informed that they *will* do pro bono if they join Patterson Belknap. Cleary points to the commitment of Patterson's leadership as the root of the firm's successful pro bono program: Cochair Robert LoBue, for instance, drafted U.S. Supreme Court amicus briefs for Human Rights First in detainee rights cases; and litigation head Paul Gardephe is preparing to argue a pro bono Supreme Court case this fall, on behalf of parents who want New York City to pay for the private school education of their disabled child.

Cleary says that Patterson's manageable size helps her move fast to accept assignments and get pro bono work to the firm's lawyers. "It's easier for me as chair of the pro bono committee to deal with a smaller number of [lawyers]," she says. Cleary fields the rounds of weekly and monthly email requests from pro bono clients such as The Legal Aid Society of New York, New York Lawyers for the Public Interest, MFY

Legal Services, Inc., and Lawyers Alliance for New York, and quickly passes cases along to Patterson lawyers in need of a pro bono project. Pro bono clients say they appreciate that responsiveness. "If you send [Lisa] a list of pro bono cases, Patterson runs a conflicts check and they say yes immediately," says Lynn Kelly, executive director of MFY Legal Services, an independent, not-for-profit law firm representing low-income New Yorkers. When Patterson put together a focus group to discuss client service last fall, MFY's Kelly was included in a panel with in-house lawyers for Fortune 500 clients. "That was a sign of how important pro bono work is to the firm," Kelly says. "I felt very valued."

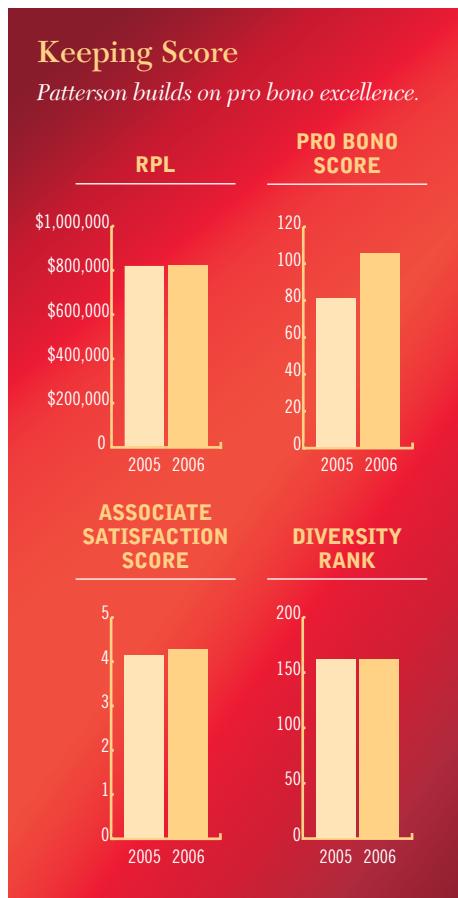
cases in the world, but we're helping, family by family," Cleary says. The firm also takes on locally based impact litigation. Cleary and a team of associates put in three years and thousands of hours on behalf of a group of 17 disabled men living in an adult home in Queens, in a case that MFY brought to the firm. Patterson filed a suit alleging that the men had been subjected to unnecessary prostate surgery, naming the home, its operator, a home health agency, a hospital, and two doctors. The case partially settled in July 2004: Plaintiffs found new housing and received \$433,000 each.

PATTERSON'S PRO BONO is also a way for the firm to attract and retain associates. "[Pro bono] is an important reflection of who the firm is," says one associate. With 250 nonbillable hours included in the 2,100 hours expected of associates, young lawyers have leeway to take on pro bono cases—and they're pushed to do so. One associate says the phone calls from pro bono committee members started soon after his arrival at the firm in the fall, and picked up at an even higher volume in November as the annual deadline to log pro bono hours approached. "People come here in part because they want to do [pro bono]," says associate Amin Kassam.

Satisfied associates are the other reason for Patterson's perennial appearance on The A-list: This year the firm rose four places in the midlevel associate survey, to seventh place from eleventh—an accomplishment all the more admirable when you consider that the next-highest New York City firm (Weil, Gotshal & Manges) ranked thirty-eighth. Associates say the firm's manageable size allows them to work closely with even the most prominent Patterson partners. They also say that since the firm staffs matters leanly, they get to do substantive work.

"Every day I am talking to clients," says one associate. "At Patterson, associates learn to think the way partners think," says another, who has handled depositions solo against partners from other firms. "You have work that you are accountable for." More than half of Patterson's associates are litigators who, as at any litigation-heavy firm, face a lot of document review (despite the small cadre of staff attorneys who handle part of the load). But partner Robert Lehrburger, head of the firm's associate and clerk recruiting efforts, says Patterson attempts to moderate drudgery with substantive work. "There's an emphasis here on pushing responsibility down," he says.

Although the responsibility keeps associates comparatively satisfied, the firm is still



While Patterson lawyers have taken on high-profile Guantánamo Bay detainee briefs and death penalty cases outside New York, the firm's efforts center on helping indigent New Yorkers. Patterson has an ongoing relationship, for instance, with Metropolitan Hospital Center in East Harlem through Volunteers of Legal Service. Partners Peter Tomlinson and Gloria Phares take referrals directly from a nurse practitioner and a social worker who identify patients with legal problems that contribute to their health problems. Last year the firm helped 25 families with 62 children through the program. "They may not be the most glamorous



Carrying a heavy load:
Pro bono chief and litigation
assigning partner Lisa Cleary



tinkering with the details of professional development. Working with Cleary and other litigation partners, for instance, director of professional development Robin Klum overhauled the department's mentoring program last year. Previously, associates were paired with a partner on day one at the firm. "We went to lunch the first day, and that was it," says partner Tomlinson, who joined Patterson as an associate in 1996. Under the new program, initiated in May 2006, associates choose their own mentors after six months at the firm. They're also broken into class groups and paired with teams of three partners. One such group recently met with former firm chair Gregory Diskant and partners Clay Pierce and Sarah Zgliniec for Chinese food at Diskant's apartment. The dinner gave way to a lesson in expert witness questioning techniques. Pierce and Zgliniec acted as the experts, and star litigator Diskant, a professorial type with salt-and-pepper hair and a wide grin, critiqued the associates. "It was

really useful getting partners' feedback," says one associate of the exercise. "We all know how good Greg [Diskant] is at trial."

WHILE THE CHANGES in mentoring are meant to improve associate satisfaction, the firm is adjusting its associate bonus structure to boost performance in another A-List category: revenue per lawyer. This year, for the first time, Patterson will tie annual associate bonuses to billable hours. "It's fair to say the new bonus structure is in part a response to revenue pressure," says cochair William Cavanaugh, Jr., speaking in his distinct Long Island accent. Revenue per lawyer is Patterson's A-List weakness: This year its RPL grew only from \$820,000 to \$825,000, dropping the firm from thirty-second to forty-fourth among Am Law 200 firms, and nineteenth of the 30 Am Law 200 firms based in New York, where average RPL was \$990,000. The firm's profits per partner, which are not a factor in The A-List rank-

Cochair William Cavanaugh, Jr. (left) and former chair Gregory Diskant: Balancing values and profits.

ings, dropped this year, from \$1.135 to \$1.04 million. (Litigation head Gardephe and cochair LoBue attribute the PPP drop to a downturn in the cycle of Patterson's patent litigation.) In April the firm announced that associates who don't hit 2007 targets of 1,850 billable and 2,100 total hours will receive only 75 percent of the market rate bonus; in 2008 they will get only half. "We're still a profit-maximizing organization," says cochair Cavanaugh. He reminds Patterson partners and associates that to continue to compete for work and laterals, the firm can't afford to be pigeonholed as a lifestyle shop. "It's not so much who you attract as who you might miss out on," he says pointing to litigation head Gardephe, a former Time Inc. deputy general counsel and U.S. Department of Justice official, as a lateral who might have passed

on a firm with that reputation.

Despite this year's dip in financial returns, Patterson's numbers have actually improved dramatically over the last decade. From 1998 to 2005, Patterson's PPP grew 141 percent, from \$470,000 to \$1.135 million—almost twice the 72 percent average growth rate of firms in The Am Law 200. During the same period, the firm's RPL grew by 66 percent—from \$495,000 to \$820,000—beating the Am Law 200 average RPL growth rate of 48 percent.

A major reason for Patterson's growth was the firm's move in the early 1990s into high-stakes patent litigation, a decision spearheaded by Diskant, Cavanaugh, and former partner David Dobbins (he is now of counsel). The patent litigation practice began when the firm took on a few important medical device cases for a subsidiary of longtime firm client Johnson & Johnson. It has since grown to one-third of the firm's litigation docket, with a blue-chip client list that includes J&J, General Electric Company, Abbott Laboratories, and Siemens AG.

With high-end work, Patterson made a move to charge high-end rates in 2002—a move that met with some initial resistance. "We had to convince our partners and our clients that we are not the low-cost alternative," says firm cochair LoBue. "We're not the cheap firm; we're the good firm."

Patterson's determination to improve its financials was really a fight to stay a small, independent firm with a traditional partnership. "[Money] is not the key driver for people here," says outgoing managing partner Korman. "But you need to be financially successful to do all the other things we consider intrinsically important to the firm."

In the early 1990s, lagging financial performance put the partnership in jeopardy. From 1990 to 1992, Patterson's head count fell from 143 to 107 lawyers—and its revenues dropped almost 20 percent, from \$49 million to \$40 million. At the urging of consultants, Patterson explored the merger market. The firm entered preliminary talks with about eight firms, and exchanged financial information with Philadelphia's Pepper Hamilton after meetings in 1990 and 1991.

Ultimately Patterson's partners opted to stay independent. Says veteran litigation partner Philip Forlenza: "When the profes-

sion changed, particularly in the early 1990s, a lot of firms did one of two things. There were those who couldn't or didn't change—collegial firms that didn't make it. Other firms that made the change, that really professionalized business management, were nothing like what they were. We were able to steer a middle course—to become more businesslike and a little less chaotically democratic." The firm had already taken such steps as hiring an executive director, Marvin Brittman, to help manage finances and administration, and appointing tax-exempt organization partner Antonia Grumbach to be Patterson's first managing partner. "This was one of those nice old places where you would bill a client once or twice a year," says Grumbach with a chuckle. As she and Brittman took over day-to-day management in the 1990s, bills started going out more regularly. Now cochair LoBue kicks off biweekly partner meetings by highlighting new business, and executive director Brittman gives a rundown of firm finances that details who has brought in what business and who is heading up major matters.

At the same time, though, Patterson maintained the traditions of its partnership. Partner lunches and dinners are scheduled twice a month—and two-thirds of the 60 partners actually turn out for them. A weekly newsletter called "the pink sheet" goes out firmwide every Friday to highlight new business, firm anniversaries, and pro bono victories. (Some partners mourn that the firm is forgoing the distribution of actual pink sheets of paper in favor of digital distribution as a part of firm cost-cutting and environmental efforts.) And the firm intentionally keeps the ratio of highest-to-lowest paid partner at a relatively low 4:1—a number that has barely budged from its 1988 level of 3:1. "We look around at these [profits] and think, 'We're blessed. It's fabulous,'" says partner Forlenza, who remembers the firm's troubled years. "If things were a little less fabulous, that would be fine."

DIVERSITY, SAYS COCHAIR LOBUE, is one of the values that Patterson is determined to maintain. "We have to make this workplace inviting to everyone," he says. "This is not just about altruism, but the health of the firm," particularly in an era in which clients

demand a commitment to diversity. Patterson had two African American office managing partners in the 1980s—Richard Parsons (now the chairman and CEO of Time Warner Inc.) in New York and Togo West, Jr., in the firm's since-closed Washington, D.C., office—but after West's departure, it did not have a partner of color for more than a decade. That changed only when litigator Karla Sanchez, who now heads the firm's diversity committee, made partner in 2004; a second minority partner, former New Jersey attorney general Peter Harvey, joined the firm in March 2006, after a five-year courtship by Patterson.

The firm has had more success with diversity in the associate ranks. Minorities make up 14.1 percent of all lawyers at Patterson, placing the firm thirty-ninth in *Minority Law Journal's* Diversity Scorecard. (By comparison, Wachtell, Lipton, Rosen & Katz, a similar-size New York City firm, reported 10.6 percent minority attorneys, ranking 103rd.) Patterson has been successful at hiring minority associates from clerkships but last year expanded its law school recruiting to the University of Texas, Northwestern University, and Georgetown University Law Center—which have relatively higher percentages of minority students than the schools where the firm has traditionally recruited.

Patterson also launched a firmwide diversity study in May, initiated by Sanchez's diversity committee. Consultants from Eastern Point Consulting Group, Inc., based in Newton, Massachusetts, conducted 14 focus groups and about 15 individual interviews to assess the firm's diversity efforts. (Before it reports, Eastern Point will also speak with several minority associates who left the firm.) The hope, says executive director Brittman, is that the consultants' findings will lead to more focused diversity training than the firm has previously had.

Firms like Patterson are becoming rarer. As many of Patterson's midsize colleagues have merged, grown, or dissolved, this shop has proudly worn the dinosaur label hung on it by consultants for nearly two decades. And it's in no hurry to shrug it off. Says former chair Diskant: "I'm fine with being a dinosaur."

E-mail: rtodd@alm.com.