

Law Firm Leaders: Lowenstein Sandler's Gary Wingens

By Sam Reisman

Law360 (January 16, 2019, 6:19 PM EST) -- During the decade since Gary Wingens took the reins at Lowenstein Sandler LLP, the chair and managing partner has steered the firm through a period of revenue growth that he says reflects the firm's commitment to a client-focused, sector-specific approach.

Wingens cites the firm's strategic decision to concentrate on the investment funds, life sciences and technology sectors, which collectively account for about 70 percent of the firm's work

"I think it's really important and it's been really important to our development and growth as a firm, and being able to do extremely well as a midsize firm, in the 300 [attorney] range, where we're in a land of giants," Wingens said.

"What clients really want to see are lawyers who understand their business," he continued. "And value is important, but it doesn't mean you have to be the cheapest firm on the block. But you have to provide real value for the services you're providing. I think more and more clients want lawyers who really understand the client's business and have done it before."

Wingens spoke with Law360 at his New York office recently to discuss the firm's strategy, history of pro bono immigration work and the evolving role of technology in the practice of law. This interview has been edited for length and clarity.

When did you begin implementing the sector-specific approach?

Ten years ago. We thought we were seeing the light at the end of the tunnel of the recession in 2009. But using the philosophy of "that which does not kill you makes you stronger," since we were still around, how do we use the coming upswing in the economy to get to the next level?

So we went through a deep strategic planning process in 2009. It was very data-focused and we looked at our metrics, who our clients were. The sector focus came out of that introspective approach, where our clients were telling us, "You guys understand our business in these areas."



Gary Wingens
Lowenstein Sandler
chair and
managing partner

At the time we had 230 lawyers [approximately]. We knew even way back then that we couldn't be all things to all people. You have to pick your spots, and it has to be authentic. We called it the "double down" strategy: Do more of the things that clients like and were willing to pay for.

There's a narrative that firms in the AmLaw Second Hundred are finding that size to be increasingly less tenable, and there's some data from different reports to back it up. How do you think Lowenstein Sandler is bucking that trend?

I think there is room for firms of our size who have a strategic approach and again don't try to be all things to all people, and there certainly are advantages to being our size and being able to remain more nimble.

A statistic that I have found incredibly powerful is that roughly 50 percent of all legal work in the world happens in the United States, and roughly 50 percent of that happens in New York City. So being able to really focus our efforts and our growth here, supplemented by geographies that are really important to our core sectors, like Palo Alto for our technology, life sciences sectors [and] Washington for our regulated industries, particularly in the funds space.

Can you describe your practice and how your career led to you becoming managing partner of the firm?

I've only been at one law firm. I was a summer associate at Lowenstein Sandler in the summer of 1987, and basically I never left. I happened to spend my summer working for a real estate partner. What I found was more important than the substantive area of the work was who you were working with and whether you enjoyed working with them. I really enjoyed it.

I came back to the firm in 1988 after graduating from law school. In between my summer and starting, the economy pretty much tanked. By the time I got back to the firm, there was no real estate work in pretty much the Northeast, and the work that there was was foreclosure work. So among my first assignments were doing foreclosures on behalf of large banks on shopping centers or partially built shopping centers, given where the economy was.

A few years later, we had a client that was acquiring mortgage-backed securities. There were very few people in the world who knew about mortgage-backed securities in 1991. But since I was the guy who had worked on foreclosure and wanted to do deals but understood how a mortgage worked, someone said, "Do you want to work on this deal?" I did. And my career was never the same.

I spent the next basically 17 years developing an expertise in mortgage-backed work. The client who we were representing back in 1991 ultimately sold the mortgage business that we helped them build to a small bank called Lehman Brothers. Between 1998 and 2008, Lehman Brothers became one of my largest clients and one of the firm's largest clients. And somewhat miraculously, earlier in 2008, I had been tapped to become managing partner of the firm. So I had another full-time job when the mortgage world kind of ended quite calamitously in mid-2008.

What have been some of the major cultural or organizational changes to firm since you took over?

One of the first things I did in 2008 was start an innovation challenge and basically set aside \$100,000 for innovative projects people want to try, to spur people to take some risk. What it did was signal to my

partners that we were serious about trying out new areas and taking risks. Because when we started representing what were then called hedge funds in the late 1980s, nobody knew they would become a huge portion of our practice. We started our venture practice in the late 1990s, before the 2001 dot-com bust, and nobody envisioned that we would, within 10 years, be among the first movers in the New York market in tech. And that 20 years later, which is this year, New York would be the second-largest venture capital geography in the United States right behind Silicon Valley. So you need people who are willing to take risks.

What's the firm doing that's cutting-edge right now?

It's cooling a little bit, but the world of distributed ledger technology. It's still really early days and that technology has a really bright future. We don't just yet quite know where it's going to manifest itself and we feel that we need to build the expertise now. We've got lawyers in our technology and venture practices who are doing that work, but also in our capital markets and securities practice, our IP practice, both in licensing and in patent prosecution. We have litigators who are up to speed on blockchain technology. And we can bring all these people together to talk about how it impacts clients.

The past six months have seen a slowing in enthusiasm, but it's going to come back. With the dot-com bust in 2000-2001, there were all these companies that went under that built out huge fiber optic capacity and people were saying, "Oh, they've built fiber optic cabling that will never be used." And those companies crumbled. People bought that capacity at a steep discount, and today it's all being used.

To me, blockchain is like that. We just don't clearly see the applications, but we're going to get there.

Should we kill the billable hour? Why or why not?

I'm not sure it's really up to the law firms to decide whether to kill it. That decision is going to be driven by clients. While we do a lot of work on alternative fee arrangements, the majority of our work remains tied to the billable hour.

I thought the billable hour was probably dead in 2008. But at the moment it seems that we have, if anything, been sliding backwards a bit. And more and more clients are moving away from alternative fee arrangement requests and back to billable hours against a budget.

In June, you were one of the co-authors, along with Paul Weiss Rifkind Wharton & Garrison LLP chair Brad Karp, of an op-ed published in The New York Times that called on the legal profession to commit pro bono work on behalf of families separated at the border by this administration's policies. What can you tell me about the firm's pro bono immigration work and how you see pro bono work fitting into the firm's larger mission?

First, when you take the oath to become a lawyer and be admitted to the bar, part of being a professional is an obligation to give back to the communities that you serve. Number two, from our experience, lawyers who do pro bono work become more well-rounded as lawyers, and honestly become better lawyers.

And, third, there are things that we can do as lawyers that have impact on society that people in other industries just can't do. We can impact social change using the legal system. The "immigration crisis" — and I'll put that in quotes — did not start with Donald Trump. We have been doing immigration work as

a centerpiece of our pro bono program since 2008, when we founded the Lowenstein Center for the Public Interest. We have been representing unaccompanied children who crossed the border, and usually it is the southern border, since 2008. And we were one of the founding partners of a nonprofit called Kids in Need of Defense (KIND), because people were up in arms that these children were coming into this country going into immigration and deportation proceedings without any representation and being summarily deported. At the time, people were pointing out that President Obama was deporting more people than any other president in American history. We did not view it as a political issue and it wasn't a particularly political issue. We viewed it as representing children and making sure that children who were in this country alone had the right to due process, which they do under the United States Constitution

Obviously, this has become a little more politicized in the last couple years, and the experience that we've had in this area I think positioned us really well to be able to step up, whether it was the travel ban initially in the early days of the Trump administration, where we sent people to the airports in New York, D.C. and San Francisco, or the self-inflicted child separation crisis.

What are some of the ways technology is changing the profession?

I have emphasized to my kids who are interested in being lawyers the importance of understanding big data and statistics. Because there is no doubt that the ability to assimilate data is going to be increasingly important in the practice of law. One of the skill sets lawyers are going to need in the future is a better way to communicate with clients other than long-winded memos and traditional written work.

Technology-assisted review is starting to have a dramatic impact. In my view, e-discovery really blew up litigation and TAR is going to bring it back down to earth a little bit. On contract drafting, we're using technology and data to make our contracts better and that will happen more and more in the future. In reviews of large data sets for deals, having technology to assist in the review is going to be critical.

You don't have to be a coder, but you have to understand what coders do and you have to understand what the data is telling you and what it's not telling you, so you make the right inferences. I don't see the technology replacing lawyers, I see it enhancing what they do and allowing them to do it faster and better.

This is related to the alternative service providers. They're native in this world. When you look at the alternative service providers or the big accounting firms, [they] know how to develop systems and they have the capital base and resources that law firms just don't.

One of the challenges for law firms of any size, even the largest law firms in the world, is that, as an industry, we are woefully undercapitalized. There are really large technology providers and other professional service firms that have the ability to really invest in the technology. The challenge for us as law firms is to marry what other people are developing in technology with our human capital. We clearly have the advantage in human capital. We have a huge disadvantage in financial capital.

--Editing by Jill Coffey.