

Legal Affairs

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Mallesons firms up Asian link

Alex Boxsell

Mallesons Stephen Jaques is finalising a strategic alliance with major Chinese law firm King & Wood, marking the first substantial tie-up between an Australian legal powerhouse and a leading Asian firm.

The alliance was discussed at a Mallesons partner meeting in Sydney on September 17, at which it is understood a heads of agreement document was reviewed.

Chinese regulations prevent foreign firms directly sharing profits with local partnerships. But it is understood the firms are considering merging their practices in Hong Kong with a view to a broader merger if regulations allow. The merit of a combined name was debated as well.

Also under consideration is whether Mallesons' incoming chief executive partner Stuart Fuller, who replaces Robert Milliner next year, will take on a leading role in Asia, leaving managing partner Tony O'Malley to oversee Australian oper-

KEY POINTS

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■ But they are devising different strategies to profit from one of the hottest legal services markets.

ations. The plan is being reviewed by both firms and a vote could occur by the end of the year. A super majority of at least 75 per cent of Mallesons' estimated 174 equity partners would be required for the vote to succeed.

The move is an attempt by Mallesons to carve out a position of dominance in Australia by forging direct links with a firm of Chinese lawyers.

This is rather than trying to secure Asia-Pacific growth by joining a global firm with roots in the UK or US, as other Australian firms have done in the past two years, the most recent being Blake Dawson's merger with global player Ashurst last week.

K&W specialises in cross-border

and domestic work, with strong links to China's government. It boasts clients such as General Electric, Goldman Sachs, HSBC and Bank of America. It has 11 offices in mainland China and one each in Hong Kong, Tokyo, Silicon Valley and New York. Mallesons has five offices in Australia, along with one each in Hong Kong, London, Beijing and Shanghai. It was one of the first Australian firms to open in Hong Kong when it established its office in 1989, followed by Beijing four years later.

In 2004, Mallesons merged with small firm Kwok & Yih, based in Hong Kong and mainland China.

Mallesons has been growing its legal capability in the region lately. Last week, it appointed two Simmons & Simmons debt capital markets lawyers — partner Sau-Wing Mak and consultant Kevin Tong — as partners in its Hong Kong office.

Mallesons' negotiations with K&W spelt the end of the Chinese firm's long-standing alliance with local firm Gilbert + Tobin.

G+T managing partner Danny Gilbert said in July he passed down an offer from K&W to be part of its global expansion plans because his partners decided G+T was "not of sufficient size to materially assist King & Wood in this respect".

Most of the biggest Australian and global firms have their sights trained on Asia, but are devising different strategies to profit from what is expected to be one of the hottest legal services markets in coming years.

UK and US-based firms Clifford Chance, Allen & Overy, Norton Rose, DLA Piper, Squire Sanders and Holman Fenwick Willan have either arrived or strengthened their ties in Australia in the past two years, seeking growth arising from the local economy and also a springboard to Asia.

Mr Milliner said Mallesons was exploring several "alliances with firms around the world as part of a broader internationalisation strategy", including talks with K&W.

Ashurst wins naming rights, page 41 ■

Minority do most pro bono work

Rachel Nickless

Australian lawyers received a mixed report card for pro bono work in the last financial year, with a widening performance gap appearing among Australia's large firms, according to a report released this week.

The National Pro Bono Resource Centre established in 2007 a voluntary target for firms and individual lawyers to sign up to, with an aim of individual lawyers spending an average of 35 hours a year on pro bono work. Firms were expected to report on their pro bono efforts each year.

The centre's latest performance report on this target reveals that in the 2010-11 financial year, eight large law firms shouldered more than their fair share of the work.

A total of 13 firms with more than 50 lawyers reported on the target in the 2010-11 year. Eight did 83.4 per cent of all pro bono hours completed by large firms that committed to the target, but this group of eight employed just 68.7 per cent of full-time equivalent (FTE) lawyers across large firms.

"These figures highlight the significant disparity that still remains between the contributions of large law firm signatories," the report said.

The report also showed several leading firms had not signed up to the target by June 30 last year, including Mallesons Stephen Jaques, Freehills and Norton Rose.

The research commissioned by PilchConnect was the first attempt to put a dollar value on the free legal service.

Lawyers who were signatories to the target did, on average, 39.8 hours of pro bono legal work in the 2010-11 year, up from 39.5 hours the year before. The number of signatories to the target jumped from 58 to 66 during the last year. Global firm Allen & Overy and local firms Talbot Olivier and Russell Kennedy were among the new firms signing up.

The target now covers 11 per cent of the Australian legal profession.

The centre's director, John Corker, said, "Whilst many signatories reported reductions in the numbers of FTE lawyers, the overall contributions of some firms increased.

"It is testament to their ongoing commitment to access to justice," he said.

Mr Corker also noted that many smaller firms and sole practitioners did more than their fair share of pro bono work.

"This year, the top-performing firm based on hours per lawyer was a firm with three lawyers each of whom did an average of 240 hours of pro bono legal work last year," he said.

Meanwhile, the Public Interest Law Clearing House in Victoria has called for continued state funding for its free legal service, PilchConnect, after a report it commissioned from Deloitte Access Economics found the service contributed \$4.3 million a year to the Victorian economy.

PilchConnect manager Sue Woodward said the research was the first attempt to put a dollar value on the free legal service by measuring the worth of the legal advice offered and savings from the reduced strain on health care and social services.

At home, at work and half the price

Private law firms are facing a new competitor, and they may just be wearing pyjamas, writes **Rachel Nickless**. But law firms should see freelancers as a useful complement.

Frustrated with working conditions in law firms, increasing numbers of lawyers are opting to work from home on a freelance basis, charging themselves out at a fraction of the cost of their old firm colleagues.

Two former Melbourne Grammar school friends are hoping to capitalise on the trend with their fledgling business, Plexus Group.

Melbourne commercial barrister Andrew Meagher and co-founder Andrew Mellett say their model — where freelance lawyers are supplied to clients in need of "routine" legal work — could substantially slash a company's legal bills.

Plexus has established a network of "law firm refugees", as Meagher and Mellett call them, who are largely women wanting to balance working from home with child rearing or study. It employs lawyers on a casual basis and connects them with clients, as well as providing project management, quality control and — for an additional fee — senior lawyer oversight.

With far smaller overheads than a firm, the Melbourne-headquartered company aims to pass efficiency gains to its clients, and pays its freelancers 20 to 30 per cent more per hour than law firms pay their permanent staff.

"When we first came up with this idea we thought it had the potential to be ground-breaking," Meagher says. "But the truth, we discovered, was that this approach has existed in North America for over a decade and is rapidly becoming the status quo. We are still trying to work out why Australia is so far behind curve."

Edward Bailey, the Australian general counsel for global biopharmaceutical company CSL, engaged a freelancer for the first time recently and is likely to hire others in the future. Bailey used a junior

freelance lawyer from Plexus for two months to work from home on a piece of pre-litigation discovery this year.

"The process was very smooth and professional and we probably saved \$15,000 to \$20,000," he says, adding that the bill was about half what a law firm would have charged to do the work.

Melbourne mother of two Emma Crean is another keen advocate for freelancing; she started working from home for herself in 2008.

"I came back to practice [in a firm] after having my daughter and it just didn't seem to be working well," says Crean, a commercial property lawyer with 11 years experience at mid-tier and top-tier law firms.

It was while she was on maternity leave after the birth of her second child that Crean's husband suggested she go out alone.

"Two faxes and an email later we had set up my practice," she says.

She had so many requests for work that first day that she had to increase her professional indemnity insurance. Crean now does conference calls in her pyjamas at home. She uses a digital dictaphone and sends audio files to a secretary living in Merimbula, who also used to work at a top-tier firm.

Crean says she has more time with her two children because she no longer has to commute to an office, attend firm meetings or chase up unpaid client bills.

"I've gained three to four hours a day that was just lost time," she says. "Financially I am way ahead."

She charges her clients half of what a firm would charge for a lawyer at her level. "But it's half that's in my pocket," she says.

If the freelance industry in Australia grows as it has in the US, it could cut into law firm revenue



Plexus Group's Andrew Mellett (left) and Andrew Meagher. Photo: ARSINEH HOUSPIAN

streams for certain types of work or decrease the size of company in-house legal teams.

However, all those interviewed for this article argue freelance lawyers can be complementary to the work done by law firms.

CSL's Bailey says he expects a growing number of in-house lawyers under cost pressures to seek out freelancers for certain work, instead of sending it to an external firm or expanding their team.

"I would use them [freelancers] for more routine tasks or project-related work," he says.

Trish Hyde, chief executive of the Australian Corporate Lawyers Association, says freelancers are on the rise because they offer "a cost-

effective and flexible alternative.

"The changes we are seeing are affecting law firms, but should not be considered a threat. Law firms will continue to have expertise that is required for complex and high importance work," she says.

Both Mellett and Meagher, a former Allens Arthur Robinson solicitor, argue their model could actually benefit firms if they followed the example of large US law firms in sub-contracting certain work to freelancers.

"They don't just win more work because of it, but their lawyers are happy because they don't have to do low-level work," Mellett says. "Our basic approach is to do the work that no one else wants to do."