

News **Compensation - Partners**

## Partner Pay Clawbacks Are on the Rise in Big Law

Firms are increasingly asking partners to repay multi-million-dollar sums as they depart for competitors, a policy some argue is legally unenforceable.

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Credit: Liudmila Dutko/Adobe Stock

### What You Need to Know

- Clawbacks are becoming a more prominent part of the attorney recruiting process in an especially active lateral market.
- At least half a dozen firms in the Am Law 100 have taken part in these clawback disputes.
- The implications of how firms are setting up their clawback provisions are getting more legally controversial.

While Clifford Chance may be [the latest](#) firm to enter a legal battle with former partners over compensation clawbacks, it certainly isn't alone, as pay disputes between firms and outgoing partners are becoming more common, amid rising partner pay and lateral movement.

Former Clifford Chance equity partners Clifford Cone and Michael Sabin [filed suit this week](#) against their old firm after they were asked to pay back a combined \$5.8 million following their lateral move to Sidley Austin in January. Specifically, Cone was asked to repay more than \$4.35 million to Clifford Chance, while Sabin was asked to renumerate more than \$1.39 million.

"There seems to be a trend (in which) firms are coming up with more creative ways to disincentivize partners from leaving or at least making it so that they are leaving significant money on the table if they do leave, especially at various points in the year," said Sarah Morris, a legal recruiter and partner at Macrae in San Francisco. "The acquiring firm is often forced to make the partner whole in order to compensate for the breakage."

Morris added that, much like stocks awards at a corporation being vested on a set schedule, "historically what's more common is there is a distribution schedule, which makes it difficult to leave once you've kind of reached a certain point of the year."

Lateral movement among Am Law 200 firms rose more than 20% last year, and lateral movement in 2026 doesn't show signs of slowing. Morris said that more partners are moving firms, "including lifers who are now departing for greener pastures [and] in response, firms are ramping up their defensive mechanisms in order to increase their chances."

In recent years, some firms, including [Kirkland & Ellis, have changed their policy](#) to allow the firms to withhold the partners' accrued compensation, upon their exit.

Kent Zimmermann, principal at legal consulting firm Zeughauser Group, said his outfit has been tracking these developments as well.

"We benchmarked this earlier this year, and there is a growing trend toward bonus clawbacks that apply to partners who leave for competitors," Zimmermann said. "The trend is particularly pronounced among the largest and most profitable firms, meaning they are putting clawback provisions in place. Those firms generally pay higher bonuses."

According to court documents in the clawback suit against Clifford Chance this week, the firm argued that the former partners were paid at higher rates than their actual shares, or "units," of the firm before their departure and should have to pay the difference back. For their part, Cone and Sabin are arguing in court that such a requirement would constitute an unlawful restrictive covenant on their ability to work elsewhere.

[Leslie Corwin](#), of counsel at Duane Morris who is representing Cone and Sabin in their dispute against Clifford Chance, said he was working with at least “half a dozen clawback cases” with different firms in addition.

“There is more mobility and globalization of law firms, certainly, than there’s ever been, and it’s only going to get more intense,” Corwin said, pointing to the increasingly active law firm merger market. “These firms are losing talent left and right to these mergers, so now they’re looking to for ways to keep them.”

Echoing that observation, Margie Grossberg, CEO of recruiting firm Benchmark Legal Search Partners, said she has been seeing an increase in compensation clawbacks by law firms in recent years and that the particularly competitive lateral market is partly to blame. According to Grossberg, firms have to offer large signing bonuses and compensation to attract and hold the kind of talent they want but then are also needing to tack on clawback clauses to make those sorts of incentives workable.

“The lateral partner market has become far more aggressive, and the stigma once associated with a quick move has diminished, particularly where the partner is being actively recruited by another firm with a stronger platform or significantly higher compensation,” said legal recruiter Avis Caravello. “In the past, many firms were reluctant to pursue a partner who had only recently joined another firm. I am now seeing firms offer substantial signing bonuses and compensation increases to recruit high-performing partners even one or two years into a new platform,” Caravello added, which leads to clawbacks provisions.

### **Rising Sign-On Bonuses—and Risks**

Compensation perks like sign-on bonuses are another major factor in the increase in clawbacks attempts against outgoing partners. As the dollar figure of sign-on perks and bonuses increase, so too do the risks to both firms and attorneys alike regarding how much money may suddenly be in dispute—often millions—when a lateral leaves early.

“When firms pay eight-figure guarantees to land a rainmaker, a clawback on an early exit easily reaches seven figures,” noted Hilary Gerzhoy, chair of the Washington, D.C., Bar’s Rules Committee and independent legal ethics attorney.

Gerzhoy said the impact of clawbacks attempts by firms against outgoing partners is getting larger, while the legal implications of how firms are setting up their clawback provisions are getting more legally controversial.

“What’s newer is the mechanism: firms with a non-U.S. master agreement trying to use foreign law to reach their American partners, precisely because foreign law will enforce what U.S. states

will not," Gerzhoy said. "There's a difference between getting your money back and taxing someone for leaving. Recovering an unearned advance is fair. Forfeiting earned compensation because the lawyer went to a competitor is a restriction on the right to practice, and Rule 5.6 doesn't allow it."

But because arbitration and mediation clauses in these partnership agreements dictate the matters get handled outside of court, experts including Corwin noted there has yet to be a precedent litigated that deems clawbacks truly enforceable or if they amount to restrictive covenants not permitted under U.S. law. For global firms like Clifford Chance, firms' cross-border offices are complicating factors, and more firms are likely to run into that as [mergers between trans-Atlantic firms](#) continue.

Gerzhoy was not alone in noting the ethical gray area surrounding clawback provisions in law firm partnership agreements. Jeffrey Lowe, Washington, D.C., market president at recruiting firm CenterPeak, noted a great deal of tension in clawbacks and how they can restrict lateral movement.

Lowe said that firms have been increasingly making use of clawback provisions in recent years to combat the especially active lateral market and "punish" partners who choose to move on. He added that these clawbacks can chill attorneys' desire to leave firms, but oddly enough the threat of those clawbacks does not seem to keep people from joining firms to begin with.

"Many partners, they just are not focused on the exit," Lowe said. "When they're thinking of moving, it's something that they might put off. I find it all very ironic because these are people who have dedicated their lives to giving the best possible legal advice to their clients. But we've seen time and time again, sometimes they give themselves short shrift with their own analysis. It can certainly be a time bomb that goes off when they decide several years later, 'Well, now I want to move on somewhere else.'"

Lateral partners should read their partnership agreements very carefully before moving to avoid clawback efforts, noted Scott Love, president of legal recruiting firm Attorney Search Group.

"Is there the possibility of a clawback? That depends," Love said. "There may be issues related to bonuses or how comp is calculated that partners need to understand before moving. Also, is their capital contribution at risk? When can they expect to see it back?"

If a partner is financially penalized for leaving a firm early or after a significant stint, the partner's new firm could pay a higher premium as a result. Many big firms make incoming partners whole by compensating them for lost bonuses or equity when they leave a firm. "It happens all the time in the process of retaining the partners and their clients," said Morris.

Love added that he advises attorneys he works with to seek legal counsel on the ethical implications of a potential lateral move in addition to the clawback risks. Clawbacks are far from a commonplace expectation when partners make lateral moves for good reason, he noted. And when they do happen, there can be ripple effect for all parties.

“This may prove to be an expensive victory, even if Clifford Chance wins,” Love said. “If prospective partners perceive the firm as punitive toward departures, that perception can narrow the recruiting pipeline.”

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