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Catering to the Preschoolers

Covington's plush new day care center features gourmet meals, heated floors, and, of course, a nifty curriculum. Will other firms follow? **By Elizabeth Goldberg**

LAW FIRMS RELENTLESSLY compete for the brightest lawyers, biggest clients, and meatiest cases.

Washington, D.C.'s Covington & Burling has upped the ante by offering a new perk—cuddliest blankets. Since August 2005 the firm has operated Covington Kids, a full-time day care program that aims to set the gold standard for infants and preschoolers.

"It's fabulous," says partner Jennifer Johnson, cochair of Covington's media practice. As her family's main breadwinner (her husband is a landscape designer), Johnson needed to return to work after the birth of her first son, Brio. Since the center is just a block away, she can see the building from her office window and visit Brio regularly. "He's happy," says Johnson, "and I feel like I'm a mom all day."

Every detail of Covington's Taj Mahal for tots was thoughtfully engineered. The interiors were inspired by a Frank Lloyd Wright stained-glass panel, the floors are made of heated corkboard, and a security system alerts the firm if so much as a door is ajar. Children follow an accredited curriculum that aims to get them into the very best kindergartens.

Open five days a week from 7 A.M. to 7 P.M., the center is available to all firm employees on a first-come, first-served basis. At capacity, the center will serve 96 children; of the 20 now enrolled, 15 have parents who are firm employees (14 attorneys and one staffer), and five have parents who work outside the firm. Covington employees have two other options: on-call nannies who babysit at home and "backup" day care. Backup entitles parents to use an independent center a limited number of days a year if their normal child care arrangements fall through.

Covington Kids may be lavish, but it's not unique. Arnold & Porter opened a full-time day care center for employees' kids in

D.C. in 1995, and Atlanta's Alston & Bird followed in 2001. Two other Atlanta-based Am Law 200 firms—Kilpatrick Stockton (in partnership with Smith Gambrell & Russell) and King & Spalding—plan to open centers in 2006.

"We are on the cusp of a trend in the legal industry," claims Ilene Serpa, a spokesperson for Bright Horizons Family Solutions. Bright Horizons, the world's largest provider of employer-sponsored child care, runs the Covington and Alston centers. "We're seeing a lot more interest and inquiry," Serpa says.

But the trend has not yet taken hold. According to a survey of day care models conducted by *The American Lawyer* in February, the majority of Am Law 200 firms are sticking with the backup model. Of the 104 firms that responded, five offer both regular full-time and emergency backup, 74 offer backup services alone, and 19 offer neither.

The main benefit of day care is the boost that it gives to recruitment and retention. Arnold & Porter managing partner Richard Alexander says his firm's full-time center helps snag attorneys who might have gone elsewhere.

"All law firms have nice offices and similar compensation systems and interesting cases," Alexander says. "This is one way we distinguish ourselves. There is no question that in recruiting, our center has made the difference."

And it goes a long way in retaining experienced women, who are much in demand. In 2004 women constituted 44 percent of associates at *The National Law Journal's* top 250 firms, but only 17 percent of partners. And though most firms are quick to say that day care is not a "woman's issue," women still bear most of the responsibility for parenting.

"There is no stickier benefit in terms of retention than work-site child care," says Serpa. Bright Horizons studies (which do not break out attorneys from other professionals) show that parents who use their company's day care have half the turnover rate of other employees.

While none of the firms would provide retention numbers, partners say unequivocally that retention means savings. Covington and Alston both estimate that the cost of replacing an associate is \$300,000. So a firm that retains a few attorneys for a few extra years by getting their kids in day care could save millions of dollars over time. Ben Johnson, Alston's managing partner, estimates that his

tate prices, but the firm also benefits from an unusual provision in Georgia's tax code that brings Alston's total out-of-pocket costs down to \$150,000 a year. The state allows companies that offer work-site day care to recover 75 percent of the operating costs and 100 percent of the capital costs through income tax credits. No other state provides as generous an incentive, which ex-

ed his firm's three-year campaign. "It took an inordinate amount of time, calling in political favors and pulling levers to make it happen."

No wonder firms flock to the alternative. Covington's neighbor across Thirteenth Street, Hogan & Hartson, was one of the pioneers in backup care, opening a center on the first floor of its building in 1989. Janet McDavid,



"A woman lawyer with children is walking on an EDGE AS WIDE AS A PIECE OF PAPER," says a Hogan partner.

center pays for itself if the firm retains two or three attorneys each year.

Johnson also believes that offering day care improves employees' productivity and morale. (And morale counts at Alston, which was the first law firm to land on *Fortune's* top ten list of best places to work, in 2002.)

Of course, the question for most managing partners is, how much does a day care center cost? Covington spent \$2 million on construction and start-up; Alston spent \$5.1 million. Covington's annual operating budget is \$2.5 million; Alston's hovers around \$1.5 million. Costs vary depending on rent, maintenance, staffing, number of children, and how much of the provider's fee a firm picks up for participating employees. Bright Horizons would not disclose its fees, but experts say the company's base rate to operate a full-time center is about \$500,000 per year. Alston's contract with Bright Horizons, which includes daily care for nearly 100 kids plus backup, cost \$778,000 in 2005.

Alston spends less than Covington in part because of real es-

plains why the day care boom is so Atlanta-centric—and why Alston was willing to shell out \$5.1 million.

All three Atlanta firms say the tax credit was a huge factor in the decision to go ahead with full-time day care and that otherwise the price would likely have been prohibitively high. In D.C., high cost took a back seat to other priorities: Arnold & Porter's former managing partner James Sandman had an ideological commitment to day care, and Covington has to compete with Arnold & Porter for talent.

Presuming other big firms can afford to copy Covington, they may still shy away. To fill a full-time center, a firm needs a critical mass of roughly 1,000 employees in a single office. It also has to acquire real estate close to the office that meets all the day care-specific building codes. And since child care is such a heavily regulated industry, a firm has to obtain a passel of licenses and permits.

"It is not to be understated how much effort went into this," says Covington executive director John Waters, who spearhead-

a partner in Hogan's antitrust group, started the center with two other female attorneys because, she explains, "A woman lawyer with children is walking on an edge as wide as a piece of paper. As long as everything is operating well, you can stay on the edge. But when life happens, the center is there to help. It was as simple as that."

Compared to Covington's, Hogan's nursery seems quaint—five small rooms with animal-spotted wallpaper and areas for arts and crafts, dress-up, and movies. There is no curriculum, since a different group of about five children between two months and 12 years old come each day, and they get Goldfish crackers with apple juice instead of a catered hot lunch. But Hogan's center is open every day, including weekends and holidays. For the litigator with a court date and a sick babysitter, McDavid says, it's a lifesaver. For the firm, it's a way to ensure that the lawyers are billing, not scrambling for child care.

While Hogan would not disclose its operating budget, McDavid says, "It doesn't take

many recovered days of a lawyer's billable time to pay for the day care center."

And it is demonstrably true that backup at independent centers is cost-effective for firms. A single membership in a Bright Horizons center in a major city is \$40,000 a year (the rule of thumb is one membership per 250 lawyers). Assume a firm has a \$40,000 contract; and assume a conservative associate billing rate of \$250 an hour, or \$2,000 a day. According to this formula, if 20 associates each use the center once a year, the firm will recover \$40,000 in billable time, and the benefit will have paid for itself.

The calculus that lawyers face is slightly different. For them, full-time day care is cheaper than the alternative of hiring a personal nanny. The average cost to employees for full-time firm-

run day care is \$140-\$360 a week, compared to \$300-\$700 a week for a nanny in a major city.

Even so, many lawyers with children say they vastly prefer the nanny plus backup care arrangement because full-time day care doesn't give the scheduling flexibility, personalized service, or household chores that a nanny will. And the additional cost is a nonissue for most families on a lawyer's salary, particularly if a nanny is the difference between managing and meltdown.

"We both have schedules that are unpredictable and unforgiving," says Julian Kleindorfer, a corporate partner at Latham & Watkins, whose wife is a surgeon. They use the backup center once every two months, when their six-day-a-week nanny is unavailable, and he does not believe full-time day care would help more. "Given the

demands of this job," he says, "you either have to have robust child care arrangements at home, or one of the spouses has to not work."

Of course, every family and firm confronts unique issues regarding child care. A few firms may opt for the deluxe day care because of specific market conditions. But given the cost-benefit analysis and available alternatives, we're unlikely to see managing partners stamped to start Covington-esque programs anytime soon.

And that's all for the best, from Covington's perspective. Having created a day care center to set itself apart from the competition, the firm doesn't want to start a trend. Rather, Covington wants its heavy investment in cuddly blankets to start paying off.

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HEARSAY

Manhattan Bound

LOCATION, LOCATION IT'S GOOD to be Stephen Susman.

The cofounder of the fabulously wealthy Houston litigation boutique of Susman Godfrey is about to open an office in Manhattan—an enterprise the firm has agreed to launch mostly



STEPHEN
SUSMAN

to keep Susman from getting bored.

"I just turned 65, and I want to do something different," says Susman, whose lifelong ties to Texas will loosen

this year when his youngest stepchild leaves home for college. And he's not just looking for his next big case. "I wanted to see if I can make something of Susman Godfrey up there," he says. "It's like an opera singer: If you haven't sung at the Met, how can you be considered great?"

Though his firm already attracts an enviable nationwide docket of commercial and antitrust megacases from both the plaintiffs and defense sides, Susman says he's hoping to find a different niche in New York—smaller commercial cases, worth \$50-100 million, based in the New York state courts. (Susman, who has handled cases for the likes of Ericsson Inc., Clear Channel Communications, Inc., and Hughes Network Systems, LLC, says he plans to handle only plaintiffs cases in New York.)

At press time the move was tentative: Susman had sent a letter to clients in February, disclosing his plans and asking their advice. The firm was scheduled to hold a formal vote on the New York scheme on March 27.

But Susman is already making plans, warning his wife that he intends to attend every black-tie gathering of lawyers in Manhattan to drum up business. "I'm going to be out there hustling and pimping for cases just like in the old days," he says. "It's invigorating." And though he may not have as much time to spend at his vacation homes in Aspen, Colorado, or Napa, California, he'll see his three Manhattan grandchildren more.

"Sometimes I wake up and I think, 'Do I really want to do this?'" he says. "But I'm excited about it. It's going to keep me interested for the next ten years." —ALISON FRANKEL

BAD PUBLICITY

CRAVATH CLAMS UP

What do you say when a former associate is accused of rape?

CRAVATH, SWAINE & Moore isn't talking. The firm's executive director, Steven Spiess, won't even give the dates when James Colliton worked at the firm. Spiess confirms he no longer works there but won't comment further.

Colliton is the 41-year-old former Cravath associate who was indicted on charges of rape and patronizing a prostitute in March. The Manhattan district attorney's investigation found that beginning in 2000, Colliton started paying a 15-year-old to engage in sexual acts with him at his midtown Manhattan apartment. Throughout 2005, Colliton allegedly paid her 13-year-old sister for sex as well.

How did Cravath learn about the charges? How did it deal with the news? So far, no answers have been offered.

Crisis management is a series



FORMER CRAVATH TAX ASSOCIATE
JAMES COLLITON

of judgment calls about disclosure. And each case has its own unique set of facts. For its part, Cravath seems to have made the decision that no disclosure is better. Communications expert Spencer Baretz of Hellerman Baretz Communications LLC, which counts Am Law 100 firms as clients, says, "Cravath's silence is damaging." The Cravath

brand needs to be protected, says Baretz.

"I would advise them to be as forthcoming as possible, and clearly they're not doing that," says Baretz.

Orrick, Herrington & Sutcliffe partner Lanny Davis agrees that silence is a mistake because it leaves the impression that there's something to hide. Davis, who specializes in crisis communication, won't comment specifically on the Cravath matter, but says that silence is especially wrong "in the case of a law firm [that] has public company clients who want to believe that their lawyers are sensitive to the importance of transparency and candor to the maximum extent possible within understandable legal limits." Cravath's clients may have to accept the stone wall on this case.

—ANDREW LONGSTRETH