BIGLAW 2016: **A LOOK AHEAD**

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Sometimes you look back and see that the prognosticators got it all wrong. Other times, you look back and see that they were pretty much spot on. As we reflect on the predictions for BigLaw over the last several years, it's clear that many anticipated themes and trends discussed in the industry have, in fact, come to pass: The rich have gotten richer, the poor poorer and the "new" normal has many lawyers wistful for BigLaw's glory days (the 1990s through the mid-2000s). It is equally clear that each firm's trajectory for success (or failure) in the aftermath of the Great Recession was likely established in the immediate aftermath of the meltdown, if not sooner. Farsighted law firm leaders recognized that significant change was ahead, while others watched from the sidelines, failing to grasp that the rules for success had fundamentally, and irrevocably, changed. Below we discuss the key issues facing BigLaw in 2016:

1. The global demand for legal services remains robust, but the supply side of the equation is undergoing a massive transformation. Immediately following the Great Recession, a number of commentators believed that the global demand for legal services was flat, if not contracting, because they *mistakenly focused solely on the output of BigLaw to derive the extent of the market.* It took several years for those same commentators to realize that the demand for legal services was neither flat nor contracting but rather that the market remained strong and that BigLaw was simply giving up overall market share to three different competitors: (1) corporate legal departments, which continue to expand dramatically as more work of increasing complexity is brought in-house; (2) new market entrants, such as Axiom and Pangea3, which continue to reshape the market as they climb further up the pyramid of services traditionally provided by BigLaw; and (3) the Big Four accounting firms. The Big Four, presumably having learned important lessons from their previous foray into legal services, continue to hire attorneys at a fast clip across the globe. According to *The Economist*, "[The Big Four] have now reached a size where they outgun most law firms: by headcount, PwC's legal arm is the world's tenth-biggest, and all four networks' law divisions are in the top 40 by this measure." Although there remains some question as to whether the Big Four aim to bring those same expansion plans to the U.S. market, it's clear that this time around they are playing for keeps.

2. Technology as a disruptor. Start-ups such as Ravel and Lex Machina, among others, are employing big data and analytics in an effort to reshape the legal services landscape, especially in the areas of legal research and litigation strategy. In addition, virtual marketplaces, such as UpCounsel and Rocket Lawyer, connect potential clients with lawyers and are driving further "disaggregation" of legal services, allowing new market entrants to take pieces of projects that were formerly handled by law firms. They continue to cause significant disruption in the legal market, both with regard to historical staffing models as well as the type of work being performed by BigLaw. Firms will need to make significant investments in technology to keep up with these changes and stay relevant.

3. Does your firm have a Chief Pricing Officer? While the death of the billable hour continues to remain greatly exaggerated, the use of alternative fee agreements (AFAs), such as flat fees, success-based fees, auction-based fees, etc., continues to increase and has led to a more business-like analysis by law firms as to how their services should be priced. Our Law Firm Management team is finding heightened demand from firms for Chief Pricing Officers, with expertise in analytics and profitability analysis, to address these issues. There is no doubt law firms will continue to face pressure from clients to substantiate the value proposition for their services and will continue to look to MBAs and other outside consultants to navigate these market changes.

4. The non-partner track/staff attorney model is here to stay. Over the last decade, both firms and clients have come to realize that project attorneys, staff attorneys, career associates, etc., can provide high-quality work at significantly lower cost. Faced with external pressure from new market entrants, law firms have increasingly embraced these models and have surprised even themselves with the results: high-quality work at a lower price, coupled with a high degree of job satisfaction from those performing the work. It's a classic win-win and will continue to impact law firm staffing models. Furthermore, any "stigma" formerly associated with these types of positions continues to fade.

5. On-shoring of back office services to lower wage geographies is also here to stay. During the late 1990s and early 2000s while most firms looked toward India for off-shoring, a number of firms, most notably Orrick, experimented with moving back office services to smaller cities in the U.S. with relatively low costs of living but with highly educated work forces. Many of the firms that went the India route found that the types of legal work that could be off-shored were limited, that the projected savings did not follow and that it was more difficult to deliver a seamless product from across the globe than anyone anticipated. Conversely, the "on-shoring" model pioneered by Orrick—and since followed by firms such as WilmerHale and Reed Smith—has flourished. As with the non-partner track/staff attorney model, law firms have found that back office services can be provided off site at significantly lower cost and with a high degree of quality and job satisfaction.

6. Practices continue to be commoditized. The trend toward commoditization of practice areas where complexity and regulatory oversight is decreasing continues to accelerate and portions of otherwise premium rate work continue to be disaggregated, reducing the overall profitability of a project. So not only are firms retaining smaller portions of the work, but they are also facing the added stress of justifying their rates for those portions they do retain. This has put pressure on many firms to focus on the strongest parts of their service offering and work toward achieving and/or maintaining best of brand quality while divesting themselves of less profitable practices.

7. Firms have become better at controlling expenses and coming to grips with shedding unproductive partners. Over the past 10 years, firms have become much better at controlling their expenses and have become savvier about the revenue side of the equation. Of course, a law firm's single biggest "expense" is compensation, and no factor has generated more overhang than unproductive partners. As we noted back in 2013, the economic realities of the modern market dictated that tough business decisions needed to be made and that many BigLaw firms, to their credit, were genuinely distressed by the reality of having to shed unproductive partners. While firms were initially slow to deal with this issue because of their true regard for and loyalty to their partners, most have rightly concluded that they really have no choice. Furthermore, partners who find themselves in such a situation typically see the writing on the wall and, while they will typically hang on for as long as the firm will allow, also understand that it's strictly a business decision.

8. Firms will continue to require less office space to accommodate their personnel and will continue to explore ways of reconfiguring office space (e.g., hoteling, elimination of "partner-size" offices, etc.) in an effort to control costs. Law firms have embraced changes to their utilization of real estate. More and more firms continue to experiment with hoteling, single-size offices (to the chagrin of some partners), communal workspaces and locations outside the traditional "downtown business district." Law firms, like virtually every other business, have grown more comfortable with their employees working from home or other remote locations, and as the technology has improved, lawyers and clients of all ages are increasing the use of teleconferences and videoconferences in lieu of in-person meetings. These factors, coupled with shrinking libraries, file rooms and common areas, as well as higher lawyer to administrative assistant ratios, will likely lead to further reductions in real estate utilization by firms in the years ahead.

9. The competition for lateral partners remains very strong. Law firms essentially have three ways to grow revenue and/or address important strategic needs: (1) substantially improve their existing lawyers' abilities to develop business; (2) merge; or (3) hire laterally. Option 1 is an admirable approach, and we have seen some firms have success in improving internal processes and training. While its efficacy is debated, what seems evident is the pace of change from these approaches is rarely acceptable to today's law firm leaders in addressing strategic objectives. With regard to mergers, recent (and not-so-recent) history shows that the results are uneven, at best, and in several cases have been outright disasters. That leaves lateral hiring.

The lateral market continues to be extremely hot, both in the U.S. and internationally. Top partners are in demand, and firms continue to make key "investment" hires. Despite assertions by some commentators who question the wisdom of lateral partner hiring, lateral partner hiring remains an extremely viable strategy for growth and is the strategy most often identified by firm leaders as key to their competitive approach. Virtually every major Am Law 200 firm achieved a significant piece of their current size, breadth and profitability through long-term successful lateral hiring. Rather than question this historically successful growth strategy, firms would be better served examining and improving their hiring and integration process. As our *2014 Lateral Partner Satisfaction Survey* demonstrates, firms that do a good job integrating their lateral partners have a much better chance of keeping them and helping them succeed. Finally, over the last decade the top echelon of firms have grown more comfortable hiring laterally, albeit still very selectively. We see this trend continuing and likely accelerating.

10. Mergers will continue, and rainmakers at weaker firms will continue to move to more hospitable environments. Merger activity continues unabated into 2016, and we see no sign of it slowing down anytime soon. Many firms that have been unable to improve themselves in key areas, or to achieve their perceived optimal size, have convinced themselves that merging will solve their problems (or in some situations, save their firm). While some mergers make sense, what we see as inordinately risky is the situation when two firms are both underperforming and believe their salvation lies in tying themselves together. As these merger discussions continue, more and more partners, having watched Dewey go supernova and Bingham slowly slide into oblivion, are taking stock in their careers and critically thinking about what lies ahead for their own firms—being involved with a firm that is taking on water is something most partners want to aggressively avoid.

11. Leadership and Strategy. Leadership and Strategy. Leadership and Strategy. In real estate, it's location, location, location, and we think the same repetitive concept applies to law firm's regarding their leadership and strategy. Our unique perspective as the world's leading legal search firm allows us to sit down with the Chairs, Managing Partners, CEOs and Practice Leaders of top law firms across the Americas, Europe and Asia. Over time, certain patterns emerge: There are strong leaders and weak leaders and good strategies and bad strategies. Obviously, you'd prefer a firm with strong leadership and a good strategy, but both often are not present. However, if we could pick only one, we'd place our bets on good strategy rather than a strong leader.

Over the last two decades, firms have begun to realize that the traditional player/coach model may no longer represent the best path for success. The market is simply too efficient to allow strong leadership to overcome weak strategy. Just as firms have become savvier about managing their costs, revenue and pricing strategies, they will continue to gravitate toward more professional management of their business enterprises.

12. Firms continue to go in many different directions. While many firms continue to be circumspect about adding new offices or headcount, others continue full speed ahead on both counts. Is there one right size? We don't think so, and a cursory glance at the Am Law 50 will show you that. In any event, it's clear that the massive expansion era of BigLaw that began in the 1980s allowed many firms to successfully reinvent themselves as national, and even global powers, and the rising tide resulted in partners (and associates) being compensated more richly than their predecessors could have ever dreamed.

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The years following the Great Recession have surely been challenging, perhaps even transformational, yet many firms have emerged from these challenges stronger than ever. What do these firms all have in common? Strong leadership, smart strategy and a willingness to embrace change. The "Great Shake-out" began about eight years ago and will continue well into the next decade. Perhaps the story of BigLaw's ultimate winners and losers is only half-written, but for some firms, the ending may already be inevitable. How will your firm fare?

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About Jeffrey A. Lowe

Jeffrey A. Lowe is the Global Practice Leader of Major, Lindsey & Africa's Law Firm Practice and the Managing Partner of the firm's Washington, D.C., office. He is the author of the biennial Major, Lindsey & Africa Partner Compensation Surveys, the most comprehensive efforts ever undertaken to explore partner compensation and satisfaction, and the co-author of the 2014 Major, Lindsey & Africa Lateral Partner Satisfaction Survey. He is regularly quoted by leading legal newspapers and periodicals, such as The American Lawyer, Law 360 and The Wall Street Journal, and his articles have been published in the D.C. Legal Times; The New York Law Journal; The National Law Journal; the Law Firm Partnership & Benefits Report; and the Texas Lawyer.

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