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## The Times They Are a Changin' So Must the Metrics

*"Come gather 'round people  
Wherever you roam  
And admit that the waters  
Around you have grown  
And accept it that soon  
You'll be drenched to the bone*

*If your time to you  
Is worth savin'  
Then you better start swimmin'  
Or you'll sink like a stone  
For the times they are a-changin'"*  
- Bob Dylan

Dollars to donuts says that if you ask the chair or managing partner of an Am Law 100, 200, or Global 100 law firm what he sees as the biggest challenge his firm faces in the post-2008 recession era, more often than not his answer will be "building top-line revenue." This response neatly aligns with what every Big Law partner would say is his top priority: "building a book of business." The exhortation to "build the top line" isn't just coming from firm chairs and managing partners. It has been echoing through the conference halls at COO, CFO, and CMO legal industry gatherings for 12 months, ever since coins started jingling again in Big Law's recession-emptied cash registers. Even the soothsayers of gender diversity are calling for the creation of a level playing field on which the under-represented in Big Law's partner ranks can "build their books of business."

Strategically driven top-line growth will always be a sign of financial health. But, changing times are calling for law firm leaders to pivot and address a more pressing and vexing challenge than building the top line: how to increase the stickiness of their platforms for talent and clients. Industry editors and academics have spent three years navel-gazing over whether the traditional law firm model is dead, the golden era is over, or the re-set button has been pushed. Very

sorry, but time is wasting. What matters is that simplistically incentivizing, admitting, and rewarding partners for building their books of business breeds behavior that will inevitably lead to failure in an industry increasingly driven by clients under cost pressure who can avail themselves of widely available cheap labor and low production costs.

The time-honored easy-to-measure metric of revenue per lawyer, frequently hailed by *The American Lawyer*, belongs to a time gone by as the most important measure of a law firm's health. The world of Big Law has gotten more complicated. Just like providing quality work and extraordinary levels of client service once sufficed for making partner and climbing the compensation schedule, building a book of business is no longer enough. It is only a piece of the pie.

The "new normal" in which law firms find themselves today calls for a new, double-barreled test for measuring partner potential and success. First, to make it as a partner today, leadership must require the firm's lawyers unfailingly to meet or exceed client expectations on *quality, service, cost, and results* on each matter *as measured by* the client's desire to come back for another matter and to refer additional clients to the firm. Second, each partner must

do that *and* deliver the work at a level of matter profitability high enough to enable the firm to generate profits sufficient to attract, train, and retain more talent capable of consistent performance at that level.

Executing on this “new normal” double-barreled metric for partner success will require wholesale change at most firms. For starters, partners and firms will need to measure and know how well they are satisfying their clients and how profitably partners are delivering matters to clients. Too many firms and far too many partners have simply a hunch or nary a clue about either. And firms will have to make hard decisions about partners, practices, and offices that don’t, won’t, and can’t be re-structured to meet the metrics.

This may seem like tough medicine. It is. But inexorable and accelerating industry trends have triggered change faster than expected. The Global 25 predicted by Steve Brill in 1983 is rapidly emerging. Most, if not all, of them have already taken the medicine. The big, hairy monster firms are those with \$2 billion a year or more in revenue or \$2 million or more in profits per partner, *or both*, and are approaching or passed \$3 million and \$3 billion. As predicted by industry pundits and noted by McKinsey a decade ago, these firms have gone on a tear of unprecedented cherry-picking. They aren’t cherry-picking the “average Joe” partner. Convergence, one of the most relentless trends of the past quarter century, is producing an ever-growing class of elite mega-rainmakers with \$25 and \$50 million-plus books of business, and the Global 25 are clawing them in. This phenomenon has driven the Am Law 100 and 200 to adopt soaring average 10:1 partner compensation ratios, double what they were five years ago, sometimes tearing a firm’s cultural “fabric” in an effort to hold onto partners with ultra-large portable practices. *The American Lawyer* has reported ratios as high as 30:1, and nobody is arguing with the number. The lock-step is collapsing or is near collapse at the few remaining holdouts. For the firms that find themselves among what we might call the “N75” (for “next

75”), or the emerging second-tier, all of them competing ferociously to occupy one of the few remaining slots left in the Global 25, a \$25 to \$50 million hit in revenue is a material loss. This is especially true in the face of another powerful margin-corrosive market force: unbundling and off-loading to non-law firm legal service providers some of the highest margin, high-priced associate work, once the sole province of Big Law. Know it or not, and some do and some don’t (the latter the proverbial frogs in boiling water), these firms are in the midst of a crisis, and no good crisis should be wasted.

The time is ripe for changing partner behavior. To draw an analogy to inside the beltway politics, firms need to “eat their peas.” The best place to start is with adopting, educating, and communicating with partners (at appropriate times and in appropriate ways) about the new metrics for success. Partners will have to be educated about how to improve matter, client, and their own profitability. These metrics are poorly understood by vast numbers of partners; not only that, the levers that drive them are rarely measured and addressed in conversations between management and partners. Some will undoubtedly raise the old arguments that measuring and talking about partner, practice, and office profitability is divisive. But how can partners improve matter management if it isn’t measured, or if it is kept secret from them? Quaint. Big Law firms are run more like businesses every day. It shouldn’t be a struggle to educate the managers and line workers on how to produce widgets more profitably while, at the same time, creating a healthy “one-firm” environment in which competition to achieve it is encouraged.

Techniques for measuring profitability have long been debated at firms. Most have come to accept realization as an acceptable measure, and it is a good one. Communicating to partners how much more or less profitable the firm would be if the realization rate on every matter were the same as for a matter just completed would be a step in the right direction, as would informing the partners of how

the realization rate could be improved. The same analysis should be applied to clients. Likewise for profit margins. Practice group, sector, and office leaders should engage in post-matter debriefings with client team and engagement leaders to discuss how to improve margins by adjusting staffing and improving utilization. In many firms, it would serve to highlight the margin-eroding effect of relying on the bloated ranks of high-priced, non-equity partner talent to do associate-level work.

A generation ago, partners at scores of firms endlessly debated how to load costs for measuring matter and client profitability. The big, hairy monsters got over the hump by making and refining rough estimates. They recognized that satisfying GAAP wasn't necessary. And they devised many of their own software apps. Today, off-the-shelf software is widely available. Most firms have it. They just aren't using it. Or management uses it secretly. That needs to change.

Joined at the hip with the priority of improving profitability is measuring, meeting, and exceeding client expectations on service, cost, and results. Robust client feedback programs are the only way this can be accomplished. Lawyers regularly need to seek client feedback on how well they are meeting and exceeding their clients' needs by asking clients themselves, surveying them using tools like the Net Promoter Score (NPS) at the conclusion of every matter, and seeking in-depth feedback using independent experts.

Once partners and firms measure, communicate, and turn to improving the profitability of their client work and how satisfied their clients are, they need to focus their resources on growing their most profitable and promising client relationships. Firms must continuously reduce the billable and non-billable lawyer time and firm resources devoted to less-profitable (save, of course, *pro bono*), less-promising clients. Growing the most profitable relationships should be brought about by rewarding partners who successfully lead and manage client teams that deliver high levels of client satisfaction and profitability. We have entered an era

in which firms have to be proficient at and disciplined in winnowing out the wheat from the chaff when it comes to clients. Deploying the right metrics is a prerequisite to making that happen.

Measuring and rewarding performance based on client satisfaction and profitability will encourage originating and relationship partners to put the best team on the field, for it is the best team, the team with the right expertise, that will generate the best result most cost effectively. By doing so, client teams are expanded across the platform, and clients become more reliant on the firm's platform of expertise than on any individual partner, which is, after all, the end game. The quality of hours expended, rather than the quantity, becomes more important to the partners working the matter. And it dissipates the desire to discount and it puts the incentive instead on devising fee arrangements aligned with the client's interest in driving results and efficiency and the firm's interest in higher levels of profitability. These incentives will lead to greater time and attention devoted to matter staffing, planning, and budgeting and, in turn, more and better communication between and among the lawyers working on a matter and the client.

As an industry, we have long known that exhorting partners to build the top line produces invidious partner demands to hold rates down, permit greater discounting, and take whatever work comes over the transom, however badly it may erode the bottom line and the brand. It flies in the face of client demands for value in lieu of the billable hours partners connote with building their books. Growing the top line by attracting strong talent and clients is certainly a competitive imperative, but it is all for naught if the platform isn't "sticky."

None of this is to suggest that firms make short shrift of, or cast aside, other important compensation metrics relating to client origination, working attorney hours, collections, and other important firm initiatives, or subrogate them in

importance to a new double-barreled test for success. But it is to suggest that firms measure, communicate to partners, and attach great importance to the extent to which matter origination is driven by exceeding client expectations for cost, service, and results (in addition to quality) in making partner admission and compensation decisions. For most firms, this would be a radical new partner compensation and admission metric. Partners who have succeeded by meeting a simpler standard of producing revenue will likely argue that client satisfaction is implicitly accounted for by the “stickiness” of clients to a partner and the firm. This is hard to refute, but hardly any argument for not making it explicit. And it doesn’t address the issue of profitability. Indeed, the Achilles heel of too many firms is that they achieve high levels of client satisfaction with cost in large part by discounting, but without paying sufficient attention to eroding margins.

Globalization and the battle for market share among the world’s most elite law firms isn’t going to go away. The unrelenting pressure to do it faster, better, and cheaper will

only accelerate. As has happened across every sector of the economy, globalization is driving and will continue to drive law firms to reduce the cost of production and increase what is referred to in the retail industry as “same-store sales” by exceeding customer expectations on value. The growing availability of off-shore, on-shore, and outsourced providers will force firms to manage teams of lawyers exponentially more complex and diverse, and beyond their own. The times demand that success be measured in a way beyond the simple metric of hours times lawyer rates and that firms turn to measuring and rewarding partner success in terms that account for today’s challenge to exceed client expectations for service, cost, and results at the highest levels of profitability. Ipso facto, the firms that do so will be more “sticky.”



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