# The Am Law 200's 'Hollow Middle'

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The American Lawyer
May 24, 2017

If you aren't high-end or super cheap, are you a firm clients will come to?

To get a grip on the market trend some observers hold responsible for flat-lining the finance charts for The Am Law Second Hundred, ponder alcohol pricing. Buyers who seek the best will pay $1,400 for a bottle of Moët & Chandon Bi Centenary Cuvée Dry Imperial from 1943, but the throngs who want their drink on the cheap want to drop only $6.99 for their six-pack of Budweiser.

The Second Hundred firms—the shops that ranked 101-200 on our list of the nation's highest-grossing firms—fall precariously in the middle of a market that on one hand serves clients who, like those who sip Moët & Chandon, are willing to pay dearly for what they consider high-end distinguished lawyering, and those on the other hand who serve clients like the Budweiser fans, who seek rock-bottom prices for the everyday stuff.

How does that bode for the most-recently reported 2016 finances of Second Hundred firms, most of which occupy the middle-ground pricing ranges? Not well. They showed little signs of revenue or profit growth in 2016.

Last year, revenue per lawyer (RPL) and profits per equity partner (PPP) remained roughly flat, on average, for the Second Hundred. RPL increased 1.5 percent from the previous year to $658,989, while PPP inched up 1.6 percent, to $748,960. The Am Law 100's average RPL rose only 1.5 percent, but the roster's PPP average rose 3 percent.
Credit: ALM

The closer firms landed to the middle of the 1-to-200 rankings, the less gross revenue growth they achieved, on average. Divided into quartiles based on gross revenue performance in 2016, firms in the Second Hundred's top two quartiles performed worse than the bottom two quartiles in revenue growth. Gross revenue increased 0.3 percent to $7.092 billion at firms 101-125 and increased 0.8 percent at firms 126-150. However, it rose 2.27 percent at firms 151-175 and 2.78 percent at firms 176-200. (Please note, we are comparing 2016 gross revenue for each quartile to the gross revenue for the same quartile—not necessarily the same firms—for 2015.)

"The hollow middle" is the term chosen by Bruce MacEwen, a lawyer and New York-based law firm consultant at Adam Smith Esq., to describe the firms that are not at the top, not at the bottom, and that are suffering slow growth as a result. As with all sorts of other markets, the providers of law services face risks if they appear to be offering otherwise undistinguished services without giving deep discounts, MacEwen says.
"There is relentless client pressure on rates and fees and it seems to ratchet up each year," MacEwen says.

Kent Zimmermann, a law firm consultant at The Zeughauser Group, agrees that rate pressure, which is occurring across almost all practice areas, industry sectors and geographies, accounts for much of the slow-growth risk. An overabundance of lawyers, however, also contributes to the challenges for the "hollow middle," he says. "Too many lawyers and not enough work to go around. It's expensive overcapacity at a lot of firms"—particularly pronounced among nonequity partners, Zimmermann says. "For too many firms, the nonequity class has become a dumping ground for people who don't perform at the level the firm expects. They don't bill the hours or they don't originate," Zimmermann says. "The highest performing firms, when considering people for nonequity, allow into the class people who are coming up and down, not just people who are not cutting it."

The middle-ground firms suffering slow growth also often fail to stay disciplined about the kind of work they will take, he says. They are often so eager to keep lawyers busy that they take assignments or pursue practice areas for which clients are not willing to pay profitable amounts, Zimmermann says. Firms may even have to reduce their lawyer rosters to thrive. "If you look historically at firms that have gotten more profitable, often it involved shrinking head count. It might be counterintuitive, but many firms have an opportunity to shrink to grow stronger financially," Zimmermann says.

"Differentiation" is the growth-strategy watchword most often repeated by Zimmermann, MacEwen, other consultants, and, perhaps most persuasively, lawyers leading firms with 2016 revenues that make their finances stand out as bright spots in a year of grays. Firms in the middle have to differentiate themselves by becoming known as experts in specialized practice areas, particular industries, or specific regions, these lawyers and consultants stress.

"It was a challenging year for them," Gretta Rusanow, head of advisory services for the law firm group at Citi Private Bank, says of The Am Law 200. But not all firms saw slow growth, she notes. "What is the difference about the haves and have nots is having a differentiated brand. You want when the client comes to you, it's not about price. Instead, they are looking for the highest value in a given practice," Rusanow says.

"Clients through their buying behavior are pushing many firms towards specialization in some niche," Zimmermann says. "That's when the clients are willing to pay the firms' higher rates."

**Differentiation Dynamos**

A handful of Am Law 200 Firms on the 2016 list that did achieve double-digit growth in gross revenue also appear to have successfully executed strategies to differentiate their law practices. Among those are: Lewis Roca Rothgerber Christie, which reported $159 million in revenues in 2016, a 27.7 percent increase from the previous year; Greenspoon Marder, which reported $122.5 million in revenues, a 17.2 percent increase; Curtis, Mallet-Prevost, Colt & Mosle, which reported $177 million in revenues, a 16.8 percent increase; and Dickinson Wright, which reported $209 million in revenues, a 12.7 percent increase.

Three years ago his firm "put together a strategic plan that focused on areas of excellence," says Kenneth Van Winkle, managing partner for Lewis Roca, where RPL was

$635,000 and the PPP came in at $605,000 in 2016. The firm, which had 251 lawyers and 111 equity partners in 2016, moved up 10 rungs on the rankings to 163. It focuses on representing religious institutions, including the Catholic Church, and gaming industry companies, and has an intellectual property practice it developed further in early 2016 when it merged with Christie, Parker & Hale, adding more patent lawyers to work with the firm's litigators.

Executing such a plan and sticking to it was not easy. "We didn't go to business school. We are lawyers first," Van Winkle says. With help from Kristin Stark, a consultant at Fairfax Associates in Irvine, California, whom the firm retained during the past five years, Lewis Roca lawyers have used a financial performance tool to evaluate new assignments and pricing, Van Winkle says.

Greenspoon Marder's specialty historically has been real estate, but now the firm has added weed. Fueled in part by its investment in the cannabis industry, booming Greenspoon Marder moved up 11 spots on the rankings this year to 176 and expanded its intellectual property and complex litigation practices. Greenspoon Marder's RPL declined 5.3 percent to $620,000 and its PPP grew 10 percent to $595,000 in 2016, as the firm expanded in both corporate work and in the national legalized marijuana sphere, adding 59 lawyers and opening in five new cities.

"Firm leadership has added and will continue to add key practitioners in practice areas which best service our clients and best facilitate seamless legal counsel under our national umbrella. Our growth and development is driven by our clients and subsequent emerging industries and markets to foster supply and meet demands," co-founders Gerry Greenspoon and Michael Marder wrote in a response to emailed questions.

Curtis, Mallet-Prevost, Colt & Mosle's differentiator is its highly successful international arbitration practice, although it has achieved that status more organically than some firms, according to Al Lynch, its executive director. His firm, which moved up nine rungs in the rankings to 154th on a 16.8 percent jump in revenue, manages to compete against firms "four or five times our size," Lynch says, because of its laser focus on international arbitration. Curtis—which had $555,000 in RPL and $1.265 million in PPP in 2016—bolsters that practice with its 17 worldwide offices, including several in places frequented by few other international firms: Almaty and Astana, Kazakhstan; Ashgabat, Turkmenistan; Buenos Aires, Argentina; and Muscat, Oman. "It really kind of took off," Lynch says, adding the firm has received new assignments for Ghana and Libya. "The whole arbitration scene has been a good place."

Dickinson Wright, which had 411 lawyers and 123 equity partners in 2016, moved up nine rungs on the rankings this year to 142, with an RPL of $510,00 and PPP of $550,000. CEO William Burgess credits his firm's "upticks" not only to specific practices—IP, health care, corporate, M&A, and securities—but also to new offices in Austin, Texas, and Fort Lauderdale, Florida, where the lawyer rosters complemented the firm's existing business areas. "We perceived that our existing clients' needs in terms of activity level would be enhanced by having Florida and Texas offices in particular," Burgess says.

"Our overarching guidepost is where can we provide efficiencies for our clients. We were consciously attempting to expand cybersecurity and white-collar, health care, IP, and general corporate," Burgess says. "But what we look for is to be very aware of the value we provide. We don't want to pretend that we can offer the services that we are aren't experts [in]."

**The Price is Right**

Burgess, along with the consultants and the other firm leaders where differentiation strategies have succeeded, stresses that specialization must be coupled with pricing tactics to keep profits rising. Burgess says his firm can provide added value because of its offices in the Midwest and Southwest. And about 25 percent of the firm's revenues are from alternatively billed sources.
"We work hard to manage our costs," Lewis Roca's Van Winkle says and notes that his firm's southwestern offices also help drive expenses down. Cost containment efforts are the only possible response to survive the persistent client pressure to discount fees felt by all law firms these days, no matter how much they have differentiated themselves, Van Winkle says.

That doesn't always mean assigning matters to the cheapest lawyers, he says. "Sometimes putting the higher-cost lawyer who does it quicker makes more sense."
"Legal services should not be bundled with a one-rate-fits-all approach," according to Greenspoon and Marder. But neither executing nor pricing a differentiated law practice should be deemed easy, says MacEwen of Adam Smith Esq. Firms shouldn't assume that they can hire a bunch of laterals with a specialty and call it a day, he says.

"You can spend gobs on laterals and then in three years they are gone," he says.
Pricing also takes more effort than many law firm leaders assume. MacEwen recalls getting a call from "a sophisticated New York firm," which faced a deadline the very next day for an RFP and was only asking for help at that point. "If they won that engagement, I bet they lost their shirt," MacEwen says. Am Law 200 firms often make the mistake of pricing services too low just to get work. "We call it suicidal pricing," says MacEwen's colleague at Adam Smith Esq., Janet Stanton.

Such mistakes have led to the near slump in the "hollow middle," Stanton says. "Right now there are a few winners [and] a whole lot more losers than there were historically," Stanton says of the The Am Law 200. Seven firms saw revenue drop by double digits last year. In that unhappy category: Munger, Tolles & Olson; Hughes Hubbard & Reed; Irell & Manella; Carlton Fields Jorden Burt; Kaye Scholer; Porter Wright Morris & Arthur; and Schiff Hardin.

Stanton says some firms in the "hollow middle" face extinction even though average metrics for The Am Law 200 do not show a downturn. "We have to be careful of averages. They are quite deceptive. We are seeing just such differences among individual firms," she says. "The firms that have a distinction are doing better than a firm that has a destination of nothing at all," she adds.