



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

New Post-Recession Metrics For BigLaw Partner Success

By **Peter Zeughauer**

*A decade after we saw the first signs of the credit crisis in 2007, this **Expert Analysis series** explores the crisis' profound impact, including changes seen by the legal industry.*

What BigLaw has come to call merit-based compensation paved the road to partner riches and success during the golden era, from 1990 to 2007. By 2008, nearly every major indigenous AmLaw 100 and 200 firm that hadn't already done so had abandoned the lockstep, many even for associates. Since then, after nearly a decade of recession-accelerated change in the industry, "merit-based" has largely come to mean, principally, for the vast majority of equity partners, some combination of origination (or "book of business") and working attorney hours, with the former nearly always the principal metric. At the same time, at more and more firms, "same-store" sales have been mostly flat and eroding.



Peter Zeughauer

Many worthy firms are struggling to compete with the continued and expansive threats brought on by the Great Recession: disruptive onshore and offshore, nonlawyer and lawyer competitors; artificial intelligence; pricing pressure; greater specialization; consolidation; and star-quality free-agent partners who scream or scramble for higher profits per equity partner, or PPEP. To retain their top partners, firms have stretched their partner compensation ratios to the tearing point for anything that resembles a one-firm culture. They have put a sinecure on partnership growth, increased their staffing ratios, and shrunk their real estate needs. Perhaps not surprisingly, none of this has ignited revenue growth or been a panacea for margins. Net net, all that has worked is increased rates. Certainly, increased rates are a good thing for firms. But, they have not been met with a lot of fanfare from clients.

There are signs that the real impact of the 2008 recession is still around the corner: fundamental new metrics by which partner success is measured. Market leaders are pointing in a new direction: the coin of the realm today is teamwork and collaboration; building a book, while forever important, isn't enough. It is worth taking a moment to reflect on why not, and looking at what will mark greatness in the future, what firms should expect of partners who aspire to rise to the top tier and drive their firms to the head of the pack.

The big squeeze on revenue and profits brought on by 2008 has driven BigLaw to focus on what more it can do to raise margins than simply raising rates and cutting costs. Firms have made important discoveries from data mined in the post-recession era. One big discovery is that pricing is more elastic in large client relationships, and most elastic when those relationships cross practice areas and involve matters that require diverse teams of specialists working together seamlessly. Teams with diverse perspectives are more likely to produce better solutions, and teams of diverse providers, including disruptors, are more likely to drive costs down. Both entice clients to send more work and spend more on it. Not to mention that teams make clients stickier to a firm than solos.

Partners who can assemble, lead and work together on teams to land these matters are, of course,

important. More so, partners who can lead and work together on a diverse team to produce an outcome that highly satisfies clients and meets or exceeds the client's expectations for results and service at a cost that the client perceives to be aligned with value enough so to come back for another matter is a still more rare bird. And, the rarest bird of all is a partner who can do this at a level of profitability that enables the firm to attract, train and retain more partners who can repeatedly perform the same trick. In an era of flat demand, aligning partner metrics for success so that compensation is tied to successful teamwork and collaboration will likely differentiate winners from languishers and losers.

Movement toward a compensation model that rewards collaboration and leadership of highly successful collaborative teams and away from the book-of-business model has evidenced itself in the increased level of discussion and focus in firms and the industry about matter profitability. Pre-recession, the debate about measuring profitability was about how to "fairly" allocate costs. That's over. Today, the discussion is about how to staff effectively. For market-leading firms, the focus is turning to reducing the cost of leverage by relying more heavily on flex staffing and flexible space (including hoteling); in short, firms are disrupting themselves with outsourced, insourced, on-site and off-site lawyers; fewer offices, fewer walls; more modular space; and advanced technology, including robots. More on the latter, below.

Another indication of the inevitability of a more robust profitability-based compensation system is the multiplication of BigLaw pricing specialists-cum-profitability analysts like rabbits. These folks aren't charged with setting hourly rates. To the contrary, they are looking to increase client satisfaction by using pricing to align the interests of the firm and the client. This means innovating and aligning fee structures with staffing and the desires of clients for more predictability of the cost and more incentives to get to the desired result quickly.

Old taboos about measuring office and practice group profitability have largely fallen by the wayside. (The more debated subject concerns how widely they should be shared. Views on that vary from firm to firm, but the subject is likely best left to another time.)

For firms that aspire to be market leaders going forward by growing their best client relationships (clients who give the firm the work and pay the rates the firm wants), improving their financial performance, making business less portable, and strengthening their culture by encouraging attorneys to work collaboratively in teams, important new compensation metrics will include:

- Client satisfaction, including with results, cost, service, and ease of use
- Client profitability, retention and growth across the firm's platform
- Partner profitability
- Matter profitability
- Associate profitability
- Attorney satisfaction
- Attorney skills (soft and technical)

Market leaders will develop systematic ways to engage clients in providing continuous streams of feedback (i.e., data) about their service preferences and satisfaction with cost, service and results using feedback methodology (i.e., data collection) like the Net Promoter Score (a successful predictor of repurchase strongly influenced by explicit performance evaluations of product performance, quality and value). Firms that innovate ways to engage clients in a continuous feedback loop across and throughout the relationship and in each matter and reward partners who do well by these metrics with compensation and opportunities for key roles in key work from key clients will lead the market with strong brands and sufficient resources to compete for the best talent.

These new metrics for partner success will likely appeal to Generations Y and Z (the millennials), the first of them now in their mid-thirties, poking into firm partner and leadership ranks. Importantly, millennials are accustomed to and have advanced skills for using hand-held technology hardware, apps and artificial intelligence to shortcut work and get results quickly. The trailing edge of millennials have been plugged into technology since they were toddlers. For them, there is no correlative equivalency between the time expended on a task and the value created. Efficiency is king. Unlike prior

generations, in which quality rode in tandem with bookishness, millennials are about achieving great results in as little time and as efficiently as possible. Artificial intelligence is, and robots as co-workers will be, ordinary to them.

In the category of "the future is now," the pre-eminent Chinese Red Circle firm JunHe has already deployed at least one robot for use in cross-border work. Adam Li, a corporate partner in JunHe's Silicon Valley office, uses a wireless connection to maneuver a two-wheeled robot with a tablet for a "head" to meetings with clients, other partners, and associates he teams up with in the firm's Shanghai office.

Congruently with the needs of the changing model for success, generations Y and Z are more diverse than any prior generation. Nationally, nearly a quarter of Americans are between the ages of 18 and 34, and of those, 42.8 percent are minorities (defined as anything other than non-Hispanic white), which is almost double the 21.6 percent it was in 1980. In Los Angeles alone, over three quarters of millennials are minorities. Recent surveys indicate that 20 percent of millennials identify as LGBTQ.

We can expect millennials leading firms to turn further toward accomplishing the actual work without lawyers. Baby boomers may question how far this can go but, recently, The New York Times reported that Falguni Shane Peacock, a major Indian fashion house, deployed an IBM Watson tool to generate unique new patterns and designs for three high-fashion dresses by studying 600,000 photos from the world's top fashion shows and Bollywood movies in a matter of seconds, a feat that would have taken a person hundreds of hours.

In BigLaw, we are already seeing lawyers collaborating with engineers to produce self-help apps that reduce the amount of outside lawyer time or eliminate it entirely while enhancing the ease with which a client can avail itself of full force of the firm's expertise using, guess what? The client's mobile device.

Attracting, training and retaining talent capable of feats akin to high fashion design in legal work isn't going to work best with a compensation system rooted in time expended and gross revenue. These will be people who want to be rewarded for achieving great, unique results quickly. The seeds of change are already being sown for a next generation grown-to-order for an industry in transition. Compensation systems aligned with their interests and the interests of clients will be an essential ingredient to attracting, training and retaining them.

Peter Zeughauser is an adviser to BigLaw firms. He is the chairman of Zeughauser Group, a law firm management strategic consultancy.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

All Content © 2003-2017, Portfolio Media, Inc.