The New Realities in Law Land and How to Thrive

March 20, 2015
Financial crises are different

- **Real housing prices decline > 35%**
  - Six to seven years to recover
- **Equities decline 56%**
  - Four years to recover
- **Unemployment jumps 7 percentage points**
  - Six years to recover
- **Real government debt increases 86% in three years**
- **Real GDP per capita declines 9.6%**
100 years of financial crises: World aggregate

Figure 1. Varieties of Crises: World Aggregate, 1900–2010

A composite index of banking, currency, sovereign default, and inflation crises, and stock market crashes (weighted by their share of world income)

Source: Authors’ calculation.
The legal sector—and these trends—are global

**Figure 5.**
Correlations and systemic risk are increasing—and increasingly visible to investors.

Global equity markets correlation (from <0.5 to >0.8, or plus >60%), 1996—2011

Source: State Street Center for Applied Research (Boston)
Immune from economic pressures

• No learning curve, no productivity increases
• We simply kept doing:
  • the same things
  • the same way
  • as all our competitors
• But with ever rising rates
  • With glorious economic results

Magic!
What’s changing?

• Globalization: Clients’ aware of alternatives

• Pricing pressures

• Geographic barriers slowly eroding

• Clients choosing to:
  • Do the work themselves
  • Use non-traditional competitors
  • Do without
“Growth Is Dead”

Chart 1 - Growth in Demand for Law Firm Services

Y/Y % Change: 2005-YTD Nov 2014

Source: Thomson Reuters Peer Monitor

“All timekeepers/billable time”
Demand by practice area

Chart 2 - Demand Growth by Practices

- Corporate (all): 23%
- Tax: 3%
- Real Estate: 6%
- Labor/Employment: 10%
- Litigation: 31%
- Patent Litigation: 5%
- Bankruptcy: 2%

Y/Y % Change

Growth Rate

Source: Thomson Reuters Peer Monitor

YTD Nov: ‘14 v ‘13

All timekeepers/billable time
But isn’t the industry at large still robust?
...Not in constant dollars
Litigation revenue permanently down

Chart 3: Demand Growth – Litigation vs. Transactional Practices (All Segments)

Source: Thomson Reuters Peer Monitor data®
Where are we now?

Exceptional firms pulling away from everyone else

At an accelerating and eventually insurmountable rate
# 2014 AmLaw 100

<table>
<thead>
<tr>
<th></th>
<th>20 “super rich”</th>
<th>74 “everyone else”</th>
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<td>Total gross revenue</td>
<td>+4.9%</td>
<td>+2.2% (US CPI: 2.3%)</td>
</tr>
<tr>
<td>RPL</td>
<td>$1.236M, +4.1%</td>
<td>$804K, +1.0%</td>
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<tr>
<td>PPP</td>
<td>$2.955M, +5.5%</td>
<td>$1.210M, +1.2%</td>
</tr>
<tr>
<td>Profit margin</td>
<td>51%, +1%</td>
<td>35%, —0—</td>
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Source: The American Lawyer (May 2014). [Six vereins excluded]
# 2014 AmLaw Second 100

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<td>PPP</td>
<td>+3.0%</td>
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Source: The American Lawyer (June 2014)
What is required?

- Strategic clarity
- Execution
- Reinforced by culture and leadership
The good news: Leadership is important

How important is strong leadership to a major law firm?

Source: Legal Business (Fall 2014)
The bad news: Leadership is mediocre

How would you rate the standard of leadership at law firms currently?

Source: Legal Business
The mixed news: It’s improving *slowly*

How have leadership standards changed over the past ten years?

Source: *Legal Business* (Fall 2014)
The #1 obstacle to effective leadership: Innovation-challenged law firm cultures

In a world crying out for innovation
## Lawyer psychology

<table>
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<tr>
<th>Trait</th>
<th>Population</th>
<th>Lawyers</th>
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<tbody>
<tr>
<td>Skepticism**</td>
<td>50% (by definition of what the “norm” is)</td>
<td>93rd %-ile</td>
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<tr>
<td>Autonomy**</td>
<td>50%</td>
<td>89%</td>
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<tr>
<td>Abstract reasoning**</td>
<td>50%</td>
<td>81%</td>
</tr>
<tr>
<td>Urgency*</td>
<td>50%</td>
<td>71%</td>
</tr>
<tr>
<td>Resilience**</td>
<td>50%</td>
<td>30%</td>
</tr>
<tr>
<td>Sociability**</td>
<td>50%</td>
<td>7% (12% including rainmakers)</td>
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</table>

* At least one standard deviation from norm  
** At least two standard deviations from norm  

Source: Dr. Larry Richard (using the “Caliper” instrument)
Partners' readiness for change

- 91% Vaguely/somewhat aware
- 7% Highly aware but passive
- 2% Highly adaptable to change

Altman-Weil “Law firms in transition survey” (2014)
What’s your greatest threat?

“Complacency”

—Azim Premji, CEO of Wipro, the 4th richest person in India
Where to from here?

That depends on where you’re starting from…

Introducing seven law firm models
The seven law firm types

- Global players
- Capital markets
- Kings of their hill
- Boutiques
- Category killers
- The hollow middle
- Integrated focus
I. Global players

• Spanning three or more continents—presence everywhere it matters
• Great heft and deep capabilities across economically important sectors
• Widespread brand name recognition
II. Capital markets firms

- Headquartered in a global financial center
- Practice heavily focused on banking and finance
- (Often) closely tied to an investment bank
III. Kings of Their Hill

• Headquartered in cities that are national, but not global, destinations
• Catering to upper/upper-middle market corporations and families
• Solidly embedded in their local markets
IV. Boutiques

• Firms that do one and really only one thing exceptionally well

• Size not a criterion
  • A 1,000-lawyer “boutique?” Sure

• Overwhelming agreement on what “the one thing” they do is
V. Category killers

• Targeting one broad practice
• Hungry and effective acquirers
• Ultimately persuading other firms to abandon the field to them
• And the model works
VI. The Hollow Middle

• Generic, one-size-fits-all

• Not a destination for anything in particular

• Don’t benefit from “flight to quality” or “flight to economy”
VII. Integrated focus

• Designed around an external industry orientation
• Focused on—and only on—the practices that industry requires
• Creating a clear branding/-client benefit message
Three leading indicators of failure
1: Fuzzy, nonexistent, or delusional strategy

• Top five ways to kid yourself about your firm’s “strategy.” It is:

  • Self-congratulatory
  • Generic, not distinctive
  • Nobody actually has the remotest idea what the strategy is
  • A strategy exists—and has sat on shelves for years
  • “Strategy” is simply growth for growth’s sake
2. Gorillas (tolerating or indulging them)

- The firm exists to serve their personal self-interest
  - Making the rest of us chumps
- Hoarding clients—repudiating any bonds of mutual obligation and responsibility
  - Exposing talk of collaboration, collegiality, etc., as hypocrisy
- Poking their thumb in the eye of leadership
  - Showing everyone who’s really in charge
- Demoralizing all the good citizens
3. Weak leadership

- Trying to placate the most vocal—no matter how irrational or self-interested
- Tolerating mediocrity in the name of “preserving our culture”
- Paralysis absent overwhelming consensus
- Delegating everything to committees

Valuing process over the right outcome
And, three leading indicators of success
1. A top-drawer “C-suite”—with power

- Sophisticated professionals for
  - Operations, finance, strategy, technology, talent recruitment/development, marketing, pricing, and business process optimization
- Let the lawyers practice law and let the C-suite manage
  - Let the pro’s do what they’re best at—and stay out of their way
  - Close to investment-neutral
- Gently but firmly rebuff objections to being “managed,” or a “top-down approach,” or “centralized decisions.”

Non-lawyers
2. Being a distinctive “destination” for clients

• First: Your firm is the “go-to” place for [25 words or less]

• Second: That “destination” is something clients care deeply about
2a. Being a distinctive “destination” for clients

• What do you excel at?
  • What can clients find here and almost no place else?
  • *Hint: Legal expertise is table stakes*

• Two available dimensions to being tangibly distinctive
  • #1: Integrated focus on specific industries
    • E.g.: high tech, healthcare, “TMT,” energy, …
  • #2: Unquestionably superb at something—always making the “consideration set”

• What these have in common: Designed with an *external focus*—client-centric
3. Treat your practice like a *business*

Your clients analyze, plan, monitor, adapt, review, and try to improve everything they do—you should as well.
“If we want things to stay as they are, things will have to change.”

—Giuseppe di Lampedusa, *The Leopard*
Where to from here?

Battle for Market Share
Moving up the food chain with current clients
Client segmentation framework: How to choose which clients to focus on

- More work to firm
- Consistent over time
- Less work to firm
- Not consistent over time

Source: LexisNexis
Redwood Analytics
Client segmentation framework: Priorities for choice and focus

- More work to firm
  - Stars
  - Consistent over time
  - Loyal but less known
- Less work to firm
  - Potential stars, or backsliders
  - Not consistent over time
  - Problem children?

Source: LexisNexis Redwood Analytics
The more touchpoints the better

Correlated with client retention:

• Meaningful contacts with several partners and practice groups
• More client touchpoints in more places
More partners involved improves retention

Source: Redwood Think Tank
More practice areas improves retention

Source: Redwood Think Tank

Three-year trend
More collaborators, more revenue

Average annual revenue for each practice area increases as more practice areas collaborate

Source: Heidi K. Gardner
HBR, March 2015
Levels I through III of client service

I: Selling what you make
   • “I love trying cases; got a case I could try?”

II: Making what sells
   • “Oh, you need some founding shareholder buyout plans? We can do that for you!”

III: Solving the client’s business problem
   • “We’re wondering if you’re concerned about ABC; we have some thoughts on that.”
Added-value: Tangible business contributions

- Help them build and protect their business:
  - Business referrals, connections
  - Translate implications of new regulations - gratis
- Enhance the capabilities of their staff:
  - High-value training
  - Secondments – both ways
- Innovative solutions:
  - Apply technology
  - Extranets
- Enhance contributions to community/pro bono:
  - Jointly-sponsored initiatives
We do poorly on the important and well on the unimportant.

Targeted: good
Generic: not so much

Source: McKinsey
Examples...

- **Low hanging fruit**
  - Know your client; talk to them
  - “On” and “off” the matter
  - “Clients of the future” – juniors
  - Re-purpose existing intellectual capital
  - Billing flexibility; consistent with their systems

- **Excellence**
  - Latham + Drexel; love ‘em when they’re down & out
  - Pharmaceutical – product life stage expertise
Thought leadership – *demonstrate* – not assert capabilities

“Proskauer on Privacy”
- Conferences, seminars, newsletters
- Informational not selling
- Much content is repurposed

“WOLF THEISS Corporate CEE Monitor”
- Central Eastern Europe
- Semi-annual
- Noteworthy macroeconomic activities
- Major legal developments; corporate and commercial law
Client feedback loop

The power of asking
...and listening
Competitive advantage

Less than half of law firms have client feedback programs

— Citibank, 2014 Client Advisory
Two views

Law firms:

- “Price pressure is brutal.”
- “We’re tired of discussing fees with the procurement department.”
- “Clients told us to be more creative and we’re now changing.”

Clients:

- “I suggest a tour of their partners’ mansions.”
- “I’m not comfortable paying for prime office space.”
- “BigLaw’s forces of inertia are tremendous. They’re not creative in the least.”

Source: Trends in the Legal Market, Boston Consulting Group (June 2014)
The Great Divide

“Outside Counsel Always or Usually Understand The Business Issues”

Source: Gerson Lehrman Group
The basics

• Their organization/business/industry and its issues
  • Business goals and strategies
  • Regulatory environment
  • Business/organizational structure

• Their competition

• What your client values
  • Her personal goals – how will she be successful?
  • What “keeps her up at night?”
Client feedback loop – What?

Types of questions

- How have we been doing?
- What do we need to be doing/not doing in the future?
- What distinguishes us from our competitors? And vice versa.
- How/what can we do better?

Topic areas

- The work
- Communication
- Personnel
- Responsiveness
- Efficiency

Watch-out: Needs to be handled with diplomacy and integrity internally
Active listening

“The most important thing in communication is hearing what isn’t said.”

- Peter Drucker
At the start of every engagement

One question:

What would success look like?
At the end of every engagement

Debrief thoroughly with the client: “After Action Review” or “Lessons Learned”

Warning: If you don’t act on what you learn—and tell the client what you’ve done—you’d be far better off not asking in the first place.
Ten things every partner can do (1—5)

• Stay in touch—even if “nothing’s going on”

• Attend/speak at industry conferences

• Write articles for industry publications

• Assign a junior to monitor the client’s firm, industry and business closely
  • And keep everyone informed

• Help clients stay out of trouble on new regulations - gratis

Check news feed and stock price before each contact
Ten things every partner can do (6—14)

- Secondments
- Schedule a weekly all-hands client team meeting
  - What did we do for them *this week*?
  - What will we do *next week*?
- Google alerts
- Walk the halls
- Quarterly check-ins on budgets, timelines, staffing, and outcomes
  - “No surprises”
- Plant tour
- Training—at their premises
- A “free day”
- Stake out a thought leadership area

Make your client look good
Success metrics

Financial results take time. Leading indicators:

- More partners meaningfully involved
- More practice areas
- More points of entry at the client

- Revenue/profit growth
- Client loyalty – less attrition
Revenue metrics

• What percentage of revenue:
  • Originated by one partner but now served by other partners?
  • Served by other offices, practice areas?

• Your firm’s share of “client’s wallet:”
  • Growing or shrinking?
  • Where else are they spending—and why?

• Higher or lower quality work?
A few words on pricing
Discounts – no going back
17% discount → 49% cut in profits

<table>
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<td>$0.34</td>
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- Profit
- Occupancy &c
- Salary & Benefits
If you could pick just one fee model...

- **Lowest** pricing: We want the lowest price available.

- **Value-based** pricing: We want to pay a variable price based on the results we get.

- **Guaranteed** pricing: We want to know in advance what it will cost.

- **Transparent** pricing: We want to understand how/why the price is set and have the opportunity to discuss changes.
Source: Altman-Weil CLO Survey/2013
Steely-eyed about the truth

• Focusing unblinkingly on the hardest and most brutal facts about the firm’s situation

• *Seriously* dealing with them: “Most men would rather die, than think. Many do.”—Bertrand Russell

• “There is no worse mistake in leadership than to hold out false hopes … **Facts beat dreams.**”—Winston Churchill (1941)
Be bold, be fearless

- Experiment widely
  - “You’ve got to play with more options in more places.”

- Embrace smart failure:
  Asked why the New York Yankees lost that day: “We made the wrong mistake” (Yogi Berra)
Jeff Immelt tripled GE’s R&D budget: 2% → 6%

- Used to introduce one new commercial jet engine per decade—now one per year

The GE90 Engine

Specifically designed for the Boeing 777, the GE90 is the world’s most powerful turbofan engine.
R&D spending as a percent of revenue

- Computers/electronics: 8%
- Healthcare: 11.5%
- Software/internet: 12.5%
- Telecom: 13%
- North American-headquartered businesses, cross-industry average: 5%
- Law: 0.00%

Source: Strategy&Co (summer 2014)
“General contractor” model

• Point person for your client’s legal needs
• Within the firm *and* outside
  • Specialist services
  • Commoditized services
  • LPOs
  • Etc., etc.
• Rational pricing for each “component”
• Beyond “trusted advisor” to “relationship steward”
What Adam Smith, Esq. recommends (I)

• **Have a strategy**
  • Growth for growth's sake is not a strategy
  • Know who you are, build on that
  • Strategy means saying No

• **Meaningfully connect with your clients**
  • Client feedback
  • Know their business and issues
  • Commit "acts of the imagination" - beyond legal servicing
What Adam Smith, Esq recommends (II)

• Be a destination for top talent, because...
  • Your firm has a vision; "the place stands for something"
  • It's a high-performing organization
    • Full of energetic, ambitious people (and only those people)

• Experiment - little bets
  • Don't make (business) decisions based only on what worked before; it's a new environment
  • Little bets improve odds of success and reduce risk
  • "Fail fast:" Quickly cut losses and double-down on winnings
“We cannot solve our problems with the same level of thinking that created them.”

—Einstein
Commit “acts of the imagination”

- Clients actually expect it of their key advisors
- You get far more credit than you think for trying—even if the client doesn’t take you up on it this time

One of the greatest of all recent legal careers was built on this: Marty Lipton