



Potomac Law Group: A Modern Twist on the Traditional Firm

Program on the Legal Profession, Harvard Law School
November 19, 2013

1. BIGLAW: THE GOLDEN YEARS



"I'm certain I speak for the entire legal profession when I say that the fee is reasonable and just."

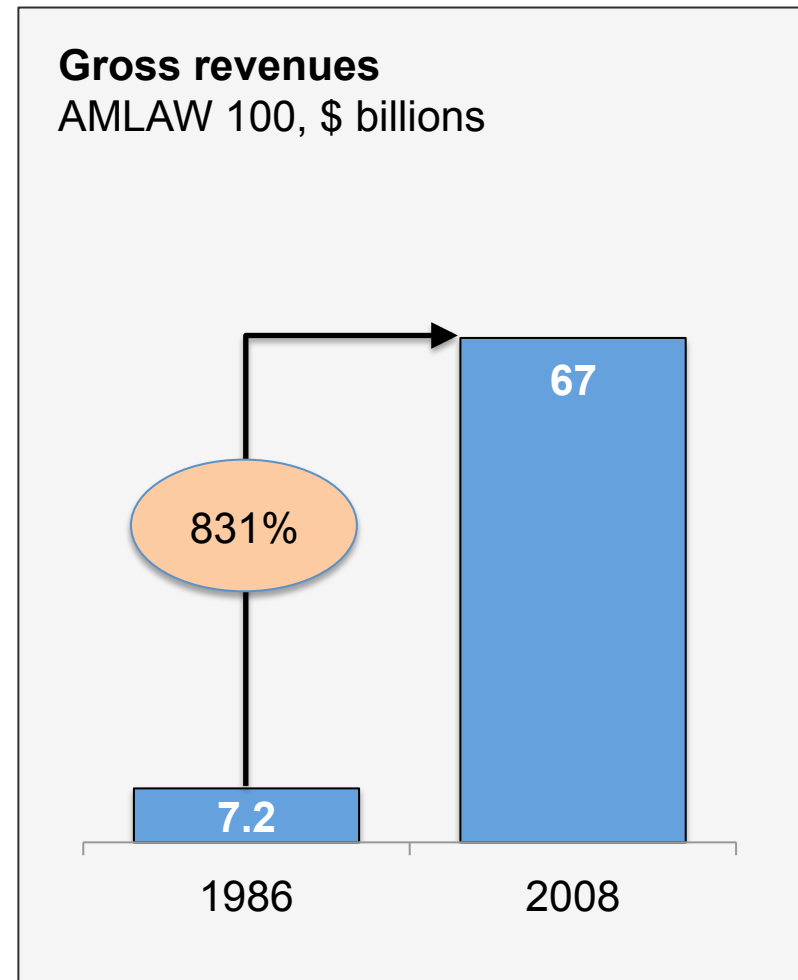
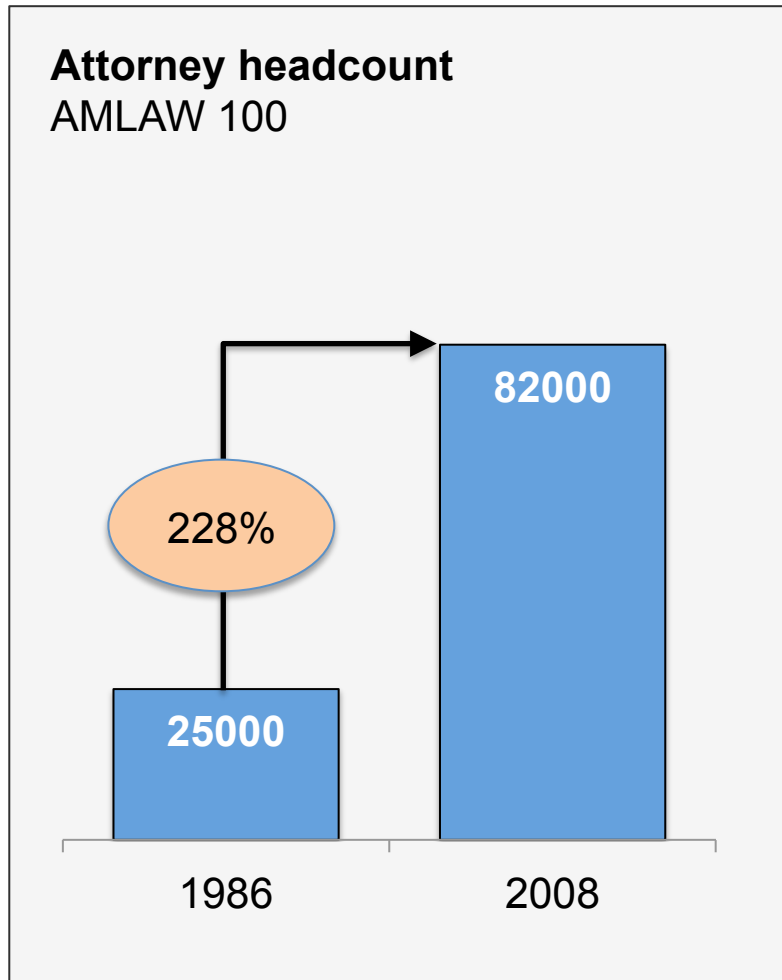
THE “CRAVATH” MODEL AND THE RISE OF THE BILLABLE HOUR



Key elements of the BigLaw Model

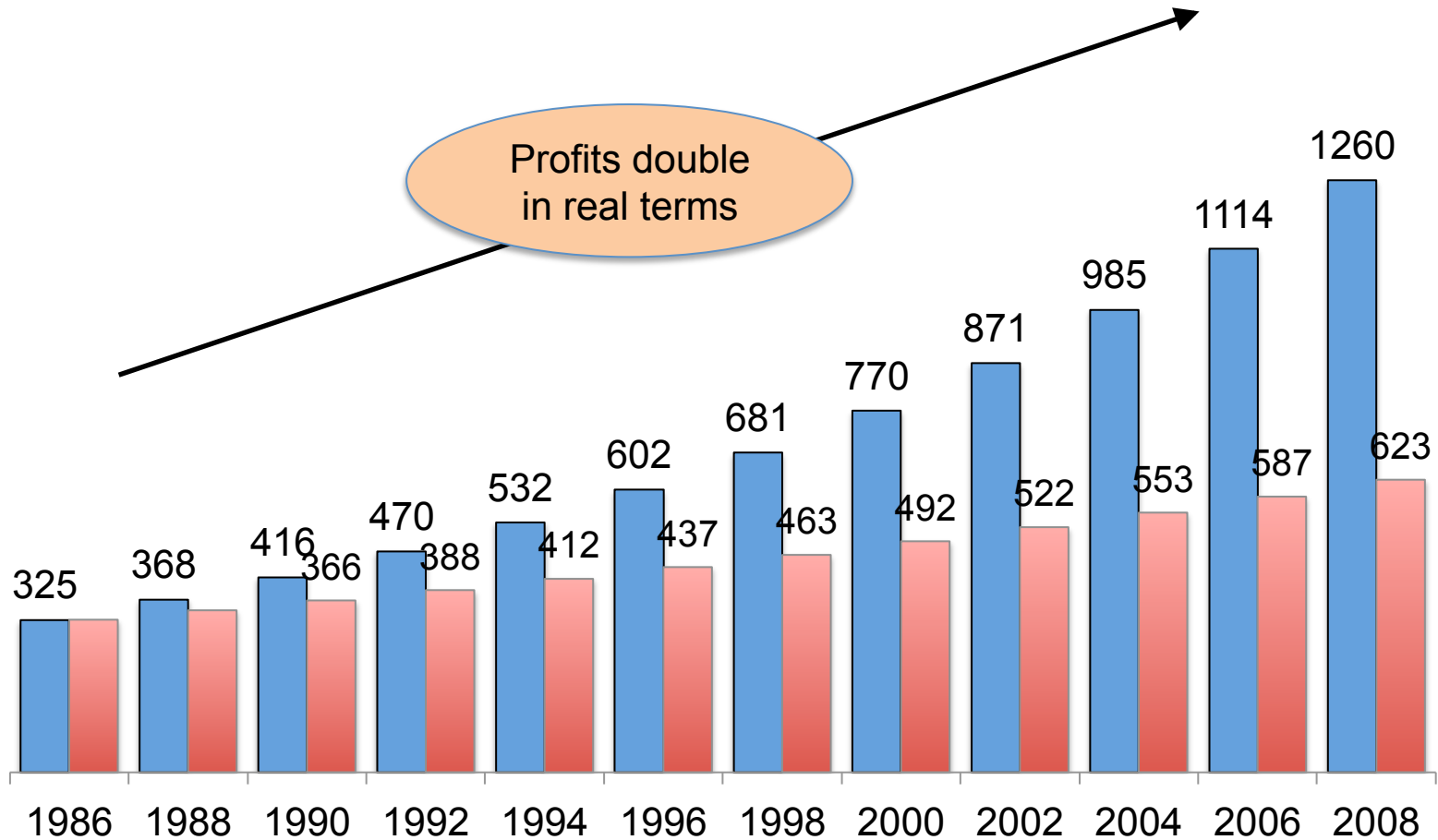
- Attract, recruit, and train top legal talent
- Pyramid structure with more numerous associates handling the bulk of the client service work
- Creation of a “tournament” to incentivize associates to work toward partnership
- Apprenticeship system
- Partnership structure with comparatively few equity partners
- Billable hour at the core, with very high hourly rates

DECADES OF EXTRAORDINARY SUCCESS WITH THE TRADITIONAL MODEL



AVERAGE ANNUAL PROFITS PER PARTNER vs. INFLATION

AMLAW 100; \$ Thousands



Source: AMLAW 100 Survey (end points, middle years estimated); Bureau of Labor Statistics.

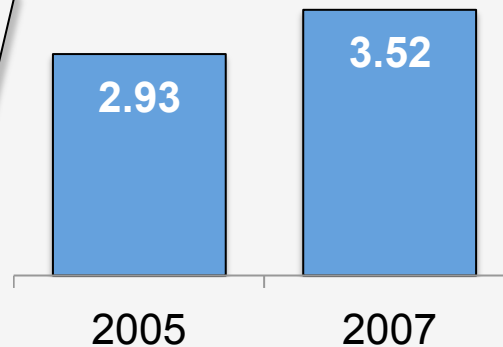
BUT CLIENT FRUSTRATION WITH BIGLAW FEES BUILDING

As outside legal costs skyrocketed....

- Years of steady rate hikes
- Growing need for legal services
 - Increased government regulation of industry
 - Greater litigiousness
 - Globalization
 - Trend toward papering

...clients brought more work in house...

In-house lawyers per \$1 billion of revenue

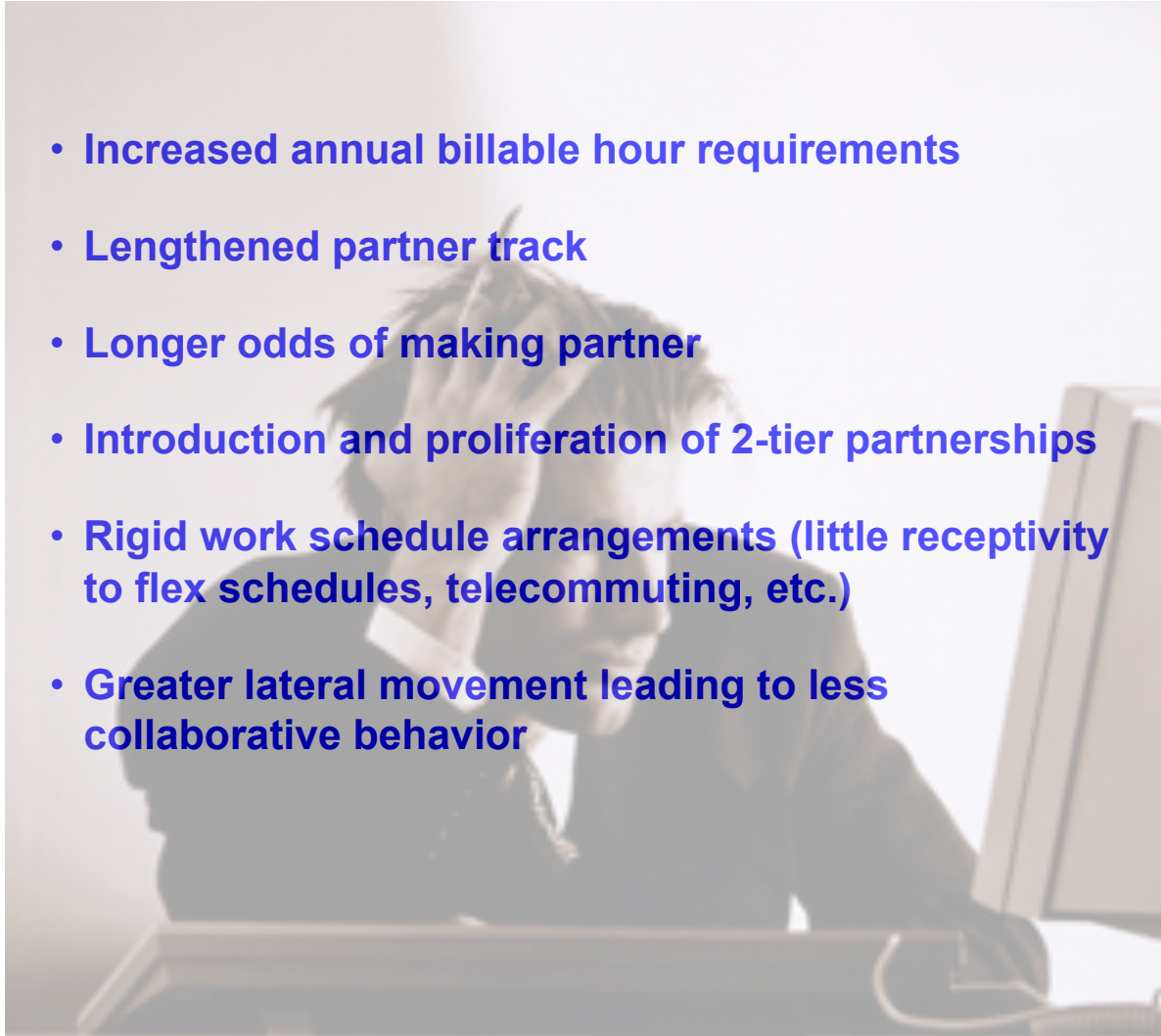


... and began exploring ways to keep fees down

- Increased interest in alternative fee arrangements
- Resistance to paying for junior attorneys
- Refusal to pay copier, research, and other add-on charges
- Openness to considering alternatives to BigLaw

AND GROWING DISAFFECTION IN THE ATTORNEY RANKS

- Increased annual billable hour requirements
- Lengthened partner track
- Longer odds of making partner
- Introduction and proliferation of 2-tier partnerships
- Rigid work schedule arrangements (little receptivity to flex schedules, telecommuting, etc.)
- Greater lateral movement leading to less collaborative behavior



AT THE SAME TIME, BIG FIRMS LOCKING IN EXPENSIVE INFRASTRUCTURE FOR THE LONG-TERM

Average first-year associate salary (NY)
\$ Thousands



Other expensive decisions

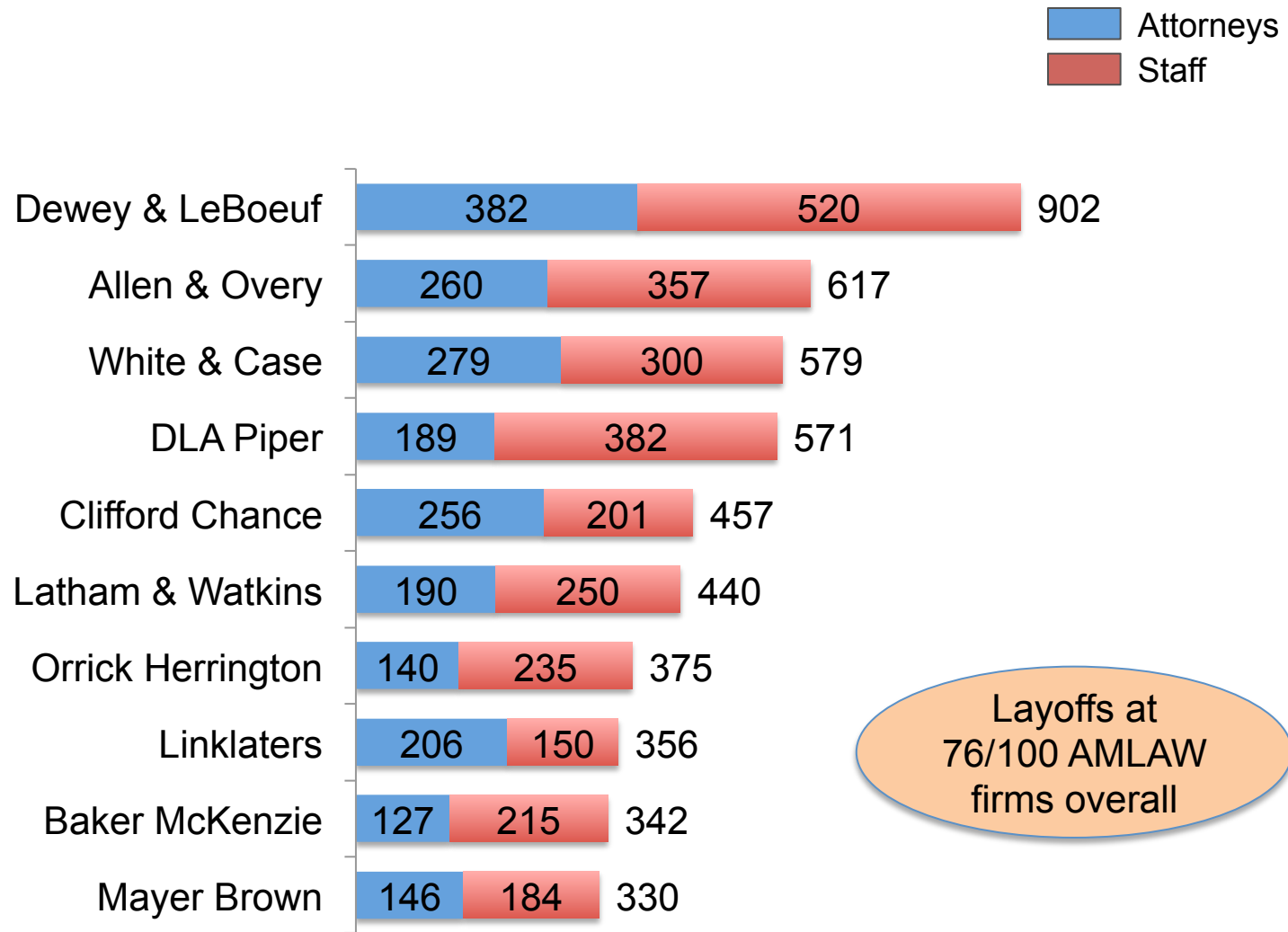
- Long-term (30-year) leases of pricey office space
- Maintenance of legacy IT systems; reluctance to embrace new technologies
- Art work and other expensive furnishings
- Foreign expansion

2. THE TIDE TURNS





PROMINENT BIGLAW LAYOFFS POST-RECESSION

Total attorneys and staff laid off, by firm, 2008-2011







NOTABLE DISSOLUTIONS 2008-2012

Firm	Description	Contributing factor
 <p>THE ADVANTAGE OF FOCUS®</p> <p>1956-2011</p>	<ul style="list-style-type: none"> • Litigation, IP, Antitrust giant • 700 attys; \$573M rev • 17 offices worldwide 	<ul style="list-style-type: none"> • Guaranteed minimums to lateral partners • Large contingent fee case wrapped up
<p>HellerEhrman</p> <p>1890-2008</p>	<ul style="list-style-type: none"> • General practice firm • 730 attys; \$508M rev • American Lawyer Top 20 “A-List” firm 	<p>Contingent of 15 intellectual property partners defected to Covington & Burling</p>
<p>DEWEY & LEBOEUF</p> <p>1909-2012</p>	<ul style="list-style-type: none"> • General practice firm • 1,040 attys; \$782M rev • 26 offices worldwide 	<ul style="list-style-type: none"> • Difficulty meshing firm cultures post-merger • High-priced laterals
 <p>1924-2008</p>	<ul style="list-style-type: none"> • Infrastructure projects, electrical utilities • 550 attys; \$400M rev • 8 offices worldwide 	<ul style="list-style-type: none"> • Post-merger integration troubles • Ill-timed partner defections

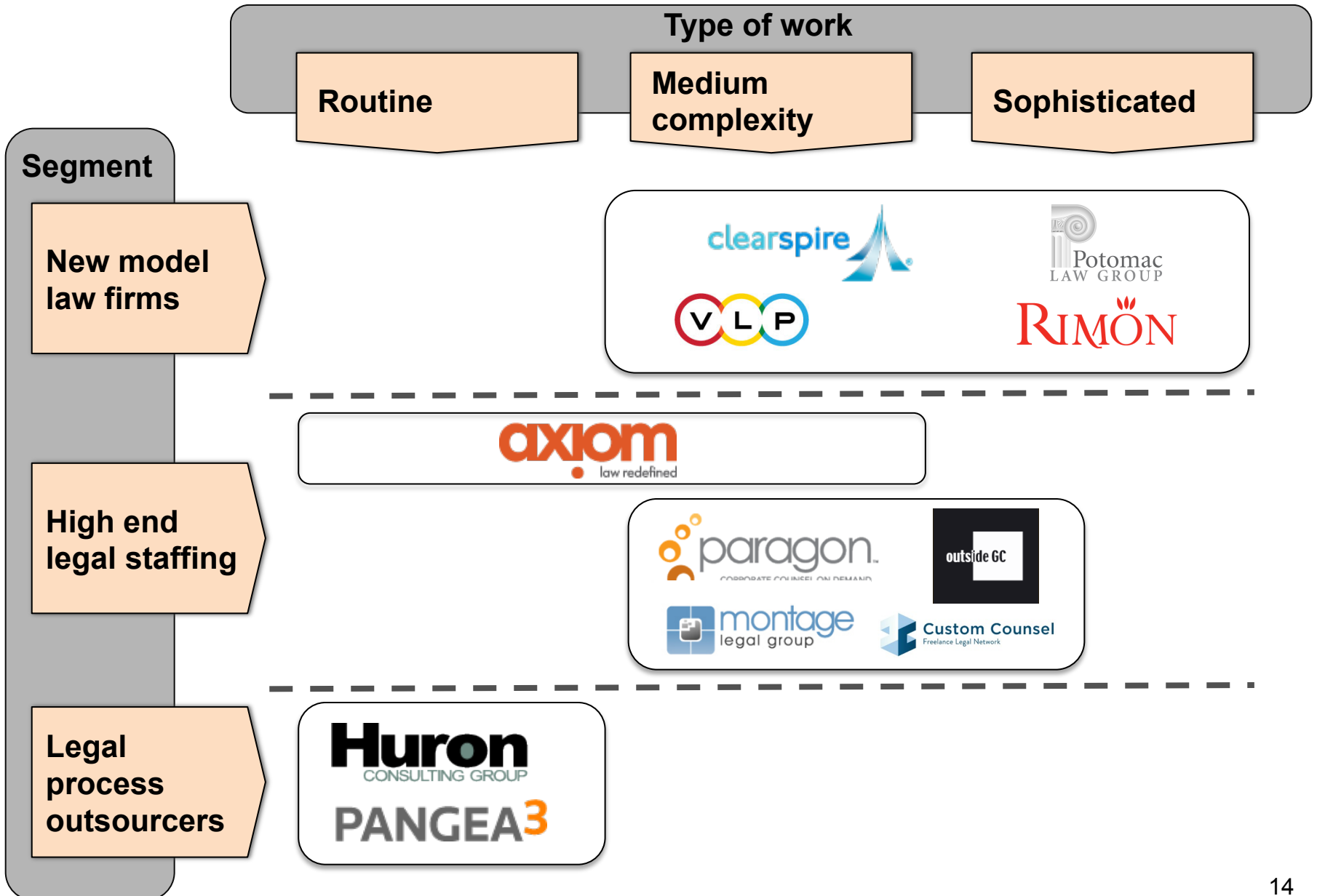
3. THE RISE OF THE NEW MODEL FIRMS



NEW MODELS OFFER IMPROVEMENTS ON MANY DIMENSIONS

BigLaw		New model firms
<ul style="list-style-type: none">• Expensive Class A space downtown• Excess capacity		<ul style="list-style-type: none">• Home offices• Client sites• Flexible office space
<ul style="list-style-type: none">• Largely tied to high hourly rate• High leverage		<ul style="list-style-type: none">• Reduced hourly rates• Fixed fee, tiered billing, and other Innovative fee structures
<ul style="list-style-type: none">• Legacy IT systems• Support staff required• Slow to adapt		<ul style="list-style-type: none">• Cloud-based• Software as a service
<ul style="list-style-type: none">• High minimum billables• Rigid schedules• Pressures for client development• Up-or-out culture		<ul style="list-style-type: none">• No/reduced billable hour minimum requirements• Part-time/flexible schedule options• Telecommuting

RISE OF THE NEW MODELS



PLG AT A GLANCE



Model

- New model law firm focused on the cost-effective delivery of high-end legal services to corporate clients
- Launched in March 2011 with 10 attorneys

Attorneys

- 40+ today, drawn from the nation's top firms and in-house departments
- Average tenure of 15 years, with a minimum of 8

Client base

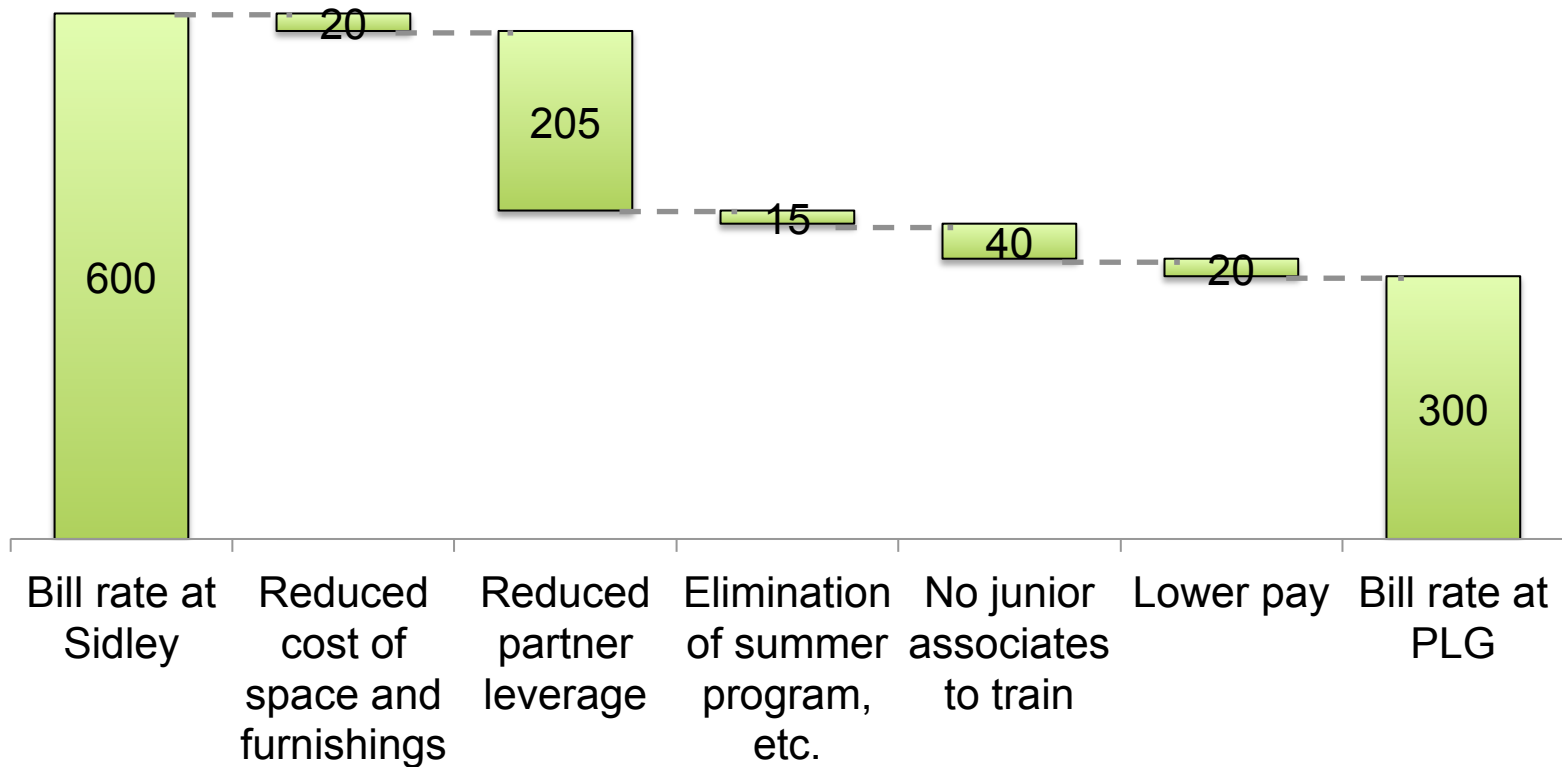
- Launched with 2 small local clients
- Today national base of public and private companies and institutions

Practice areas

- Full service, with an emphasis on transactional work

THE PLG MODEL: EFFICIENT DELIVERY OF LEGAL ADVICE

Example attorney: Luisa Caro, formerly 7th year at Sidley Austin
Hourly bill rate (\$)



Note: Figures approximate and in current dollars.

WHO COMES TO PLG? COMMON ATTORNEY PROFILES

Attorney entrepreneur

- Novel ideas for developing business that don't fit into BigLaw mold
- May be interested in nurturing a business, sometimes legal-related, on the side

Big firm escapee

- Enjoys the practice of law, but not the big firm environment; enjoys being associated with an upstart

Balance seeker

- Doesn't want to sacrifice outside interests to the practice of law
- May want to practice on a flexible schedule

Semi-retired

- Typically rose through the ranks at a big firm, went in-house at a high-level, may have taken a buy-out years later post-merger

PLG: GREATER OPPORTUNITY FOR ENTREPRENEURIAL ATTORNEYS

Sample attorney profile #1

ABOUT THE FIRM	ATTORNEYS	PRACTICE AREAS	CAREERS	CONTACT US
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WILLIAM A. MCGRATH

Partner

wmcgrath@potomacclaw.com

Potomac Law Group, PLLC
1300 Pennsylvania Avenue, NW
Suite 700
Washington, D.C. 20004
Office: (202) 525-3745
Fax: (202) 318-7707

EDUCATION

- J.D., William & Mary, 1991;
ABA Administrative Law Review
Project Editor
- B.F.A., National Merit Scholar,
Southern Methodist University,
1982

BAR ADMISSIONS

- District of Columbia

HONORS AND AWARDS

- District of Columbia Bar Pro
Bono Lawyer of the Year, 1998
- Lawrence W. l'Anson Award,
William & Mary Law, 1991

PROFESSIONAL EXPERIENCE

- Wiley Rein LLP, Partner

REPRESENTATIVE MATTERS

Counseling and Administrative Specialties

- Counsel manufacturers in all FDA-regulated industries (tobacco, foods, nutritional supplements, cosmetics, prescription and OTC drugs, and medical devices) on the development, manufacture, safety, advertising, and marketing of new and existing products.
- Work with manufacturers, distributors, and advertisers of the entire range of tobacco products (cigarettes, smokeless, pipe, little and premium cigars, dissolvables and other innovative products) on implementation, compliance, advocacy, and litigation with respect to issues arising under the Tobacco Control Act.
- Work regularly with consumer product manufacturers (including electronics, children's products, clothing, household products, and motorized vehicles) on CPSC reporting requirements, safety monitoring, risk management, government investigations, and product liability consequences.
- Represent numerous clients in negotiating, developing, implementing, and executing product recalls, including the recall of over 35 million fire sprinkler heads installed in public and private buildings nationwide.

- Joined Oct. 1 from Wiley Rein partnership
- Happier developing business at \$485/hour than \$685/hour
- Ability to use creative alternative fee arrangements
- Greater freedom to operate, ability to work from home office

PLG: GREATER OPPORTUNITY FOR ENTREPRENEURIAL ATTORNEYS (CONTINUED)

Sample attorney profile #2

ABOUT THE FIRM	ATTORNEYS	PRACTICE AREAS	CAREERS	CONTACT US
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HARRY R. SILVER

Of Counsel

hsilver@potomaclaw.com

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Washington, D.C. 20004
Office: (301) 908-3643
Fax: (202) 318-7707

EDUCATION

- J.D., Columbia University School of Law, 1971; *Columbia Law Review*
- B.A., *cum laude*, Temple University, 1968

BAR ADMISSIONS

- New York
- District of Columbia
- United States Supreme Court
- Numerous Federal Courts of Appeals
- U.S. Court of Federal Claims
- U.S. District Courts for the District of Columbia
- District of Maryland
- Western District of Michigan

PROFESSIONAL EXPERIENCE

- Patton Boggs LLP, Partner
- Akin Gump Strauss Hauer & Feld, Partner
- United States Department of Justice, Appellate Section, Civil Division, Attorney


REPRESENTATIVE MATTERS


- *U.S. ex rel. Woodruff v. Hawaii Pacific Health*, 560 F.Supp.2d 988 (D. Hawaii 2008), *aff'd*, 2010 WL 5072191 (9th Cir. 2010), successful defense of a hospital against allegations that claims for Medicaid reimbursement for certain procedures were false claims because the procedures had been performed by unlicensed nurse practitioners.
- *U.S. ex rel. Lockyer v. Hawaii Pacific Health*, 490 F.Supp.2d 1062 (D. Hawaii 2007), *aff'd*, 2009 WL 2700321 (9th Cir. 2009), successful defense of a clinic against allegations that claims submitted by physicians for Medicare reimbursement for chemotherapy were false claims because the chemotherapy was administered by nurse practitioners.
- *U.S. ex rel. Crews v. NCS Healthcare*, 460 F.3d 853 (7th Cir. 2006), successful defense of a long-term care pharmacy alleged to have defrauded Medicaid by dispensing misbranded pharmaceuticals to Medicaid beneficiaries.
- *U.S. ex rel. Quinn v. Omnicare*, 382 F.3d 432 (3d Cir. 2004), represented a long-term care pharmacy that dispensed pharmaceuticals to New Jersey Medicaid beneficiaries residing in nursing homes.

- Harry's innovative health care compliance program squelched by BigLaw
- Margins “too small,” and program viewed as a distraction from more profitable hourly work
- Encouraged and fostered at PLG

PLG: GREATER OPPORTUNITY FOR ENTREPRENEURIAL ATTORNEYS (CONTINUED)

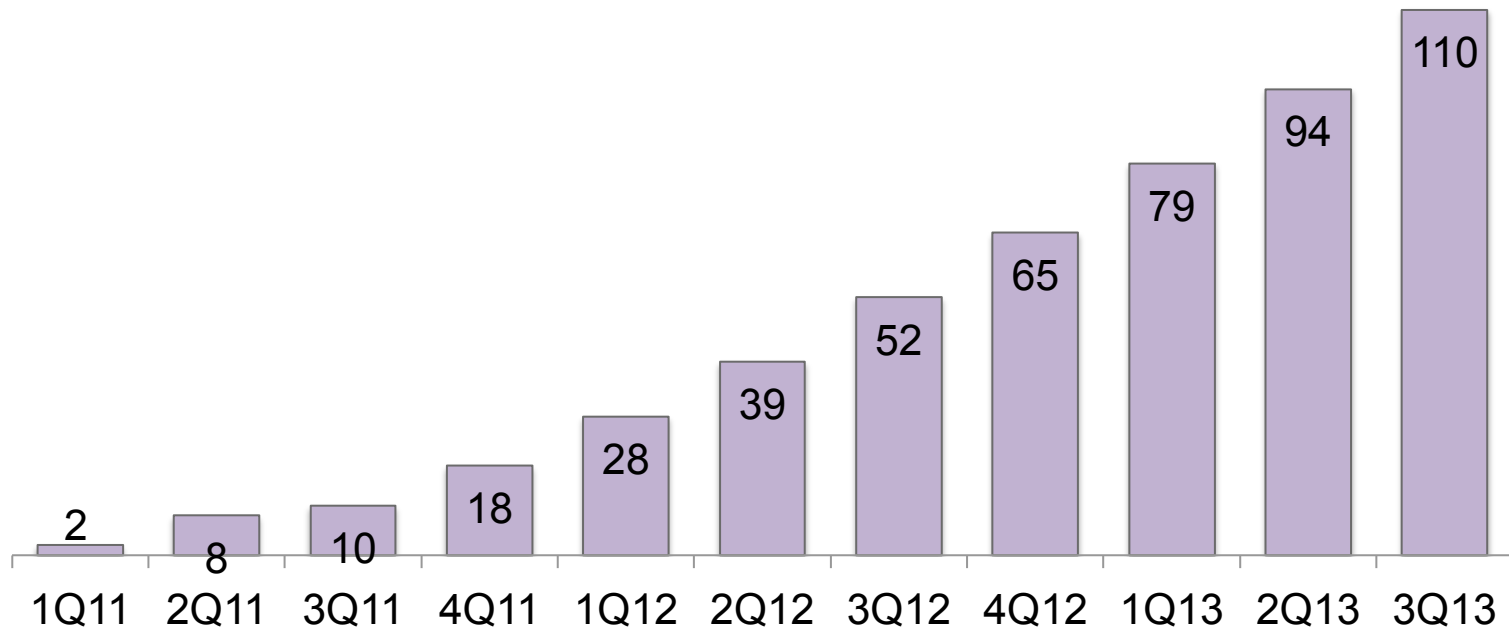
Sample attorney profile #3

ABOUT THE FIRM	ATTORNEYS	PRACTICE AREAS	CAREERS	CONTACT US
				
GEOFFREY MASON Of Counsel gmason@potomaclaw.com Potomac Law Group, PLLC 1300 Pennsylvania Avenue, NW Suite 700 Washington, D.C. 20004 Office: (202) 507-5720 Fax: (202) 318-7707				
EDUCATION <ul style="list-style-type: none">▪ J.D., <i>cum laude</i>, Georgetown University Law Center, 1997, <i>Georgetown Law Journal</i>▪ B.A., <i>magna cum laude</i>, Harvard College, 1994, Biochemical Sciences and Social Studies				
BAR ADMISSIONS <ul style="list-style-type: none">▪ District of Columbia▪ Maryland▪ New York▪ U.S. Court of Appeals for the Federal Circuit▪ U.S. Patent and Trademark Office				
PROFESSIONAL EXPERIENCE <ul style="list-style-type: none">▪ Finnegan, Henderson, Farabow, Garrett, and Dunner LLP, Associate▪ Sidley Austin, LLP, Associate▪ FastPatentPartner, LLC, Founder and CEO				
REPRESENTATIVE MATTERS <ul style="list-style-type: none">▪ Eli Lilly v. Wockhardt et al. - Defended Wockhardt against two Lilly patents covering duloxetine (Cymbalta®), a \$2.4 billion drug. Developed defenses that convinced Wockhardt to litigate solo against Eli Lilly after all remaining defendants ceased to actively litigate.▪ Johnson and Johnson v. Andrax - Asserted two patents against defendant seeking to make generic Concerta®. Convinced opposing counsel to drop sole enforceability defense immediately following successful cross-examination of key expert relating to defense; for most of the case, acted as sole attorney working with the majority of J&J's technical experts.▪ Aventis v. Teva et al. - Asserted patent against defendants seeking to make generic Lovenox®. Drafted motion for trial date shift that resulted in saving Aventis as much as \$200 million; headed all discovery efforts at issue in said motion.▪ Igen (later Bionoris) v. Roche et al. - Asserted five patents against Roche relating to its use of ECL. Acted as most senior full time attorney; case settled successfully for \$1.4 billion.				

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- Geoff, a patent attorney, developed technology solution to aid patent litigation
 - Raised angel money to pursue development
 - Splits his time between PLG and his own business venture

PLG MARKET RECEPTION SINCE LAUNCH

Clients signed inception-to-date, at quarter end



Notable clients



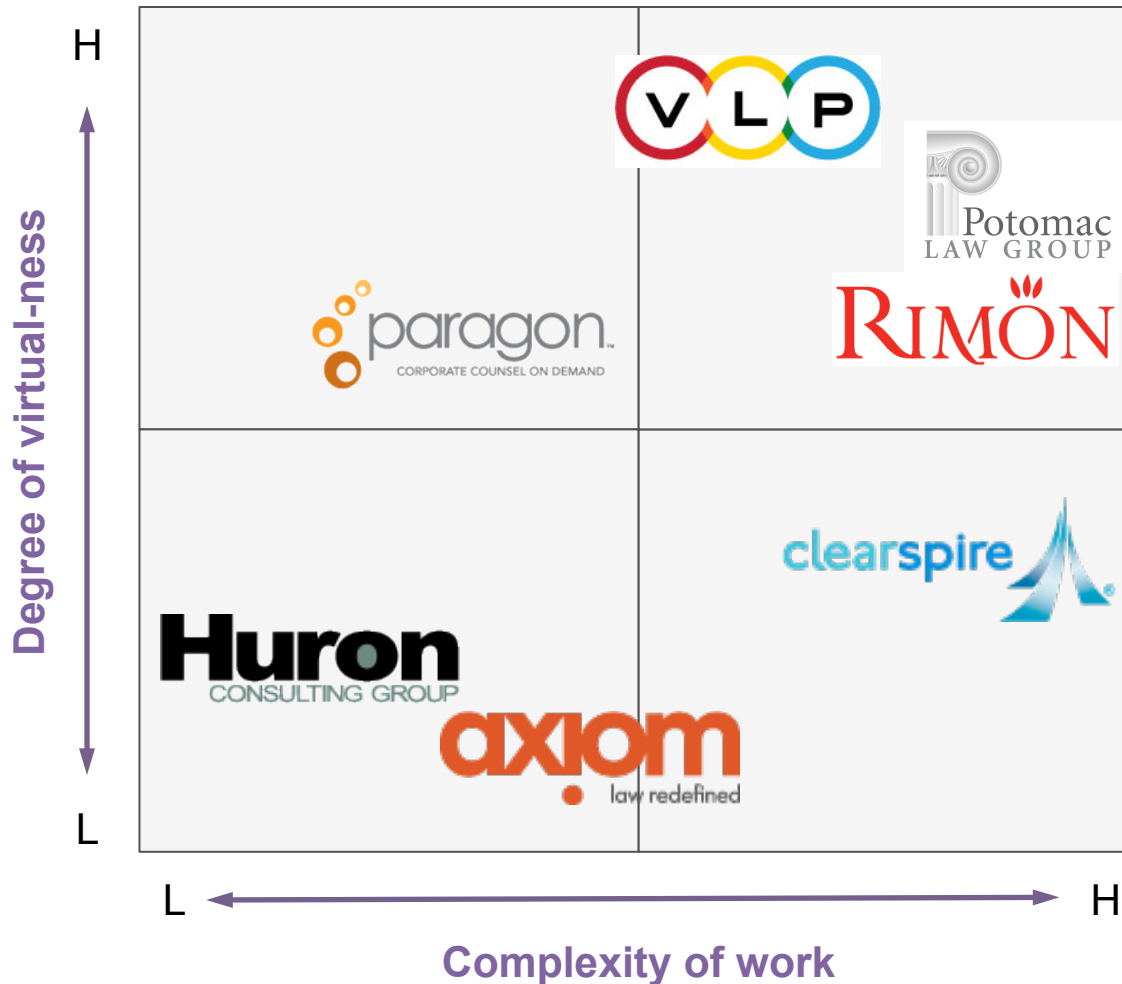
CHANGING PERCEPTIONS WITHIN BIGLAW

"We all expected [work] would pick up meaningfully this year, but it clearly hasn't. I think we've come around to the view that this is the 'new normal.' "

-- Weil Gotshal Executive Partner Barry M. Wolf, June, 2013

APPENDIX

RISE OF THE NEW MODEL FIRMS



Entrepreneurial attorneys finding better ways to bundle and deliver high end legal services to corporate America, mostly by focusing on the cost side of the equation

Big firms flat-footed, not nimble

BUT BENEATH THE SURFACE, UNSETTLING TRENDS DEVELOPING BY 2007

Ballooning costs

- Expensive, long-term office leases
- Expensive installed infrastructure (e.g., associate salaries, summer programs)
- Slow adoption of new technologies

Declining loyalty

- Partner defections, portable books; all spurred on by PPP rankings
- War for talent, increased guaranteed minimums to laterals

Growth in in-house depts


- In-house departments growing steadily in head count, prestige
- More legal work captured internally

Greater scrutiny of legal spend

- Legal depts run more like a business, with greater focus on cost, value
- More work bid out, etc.

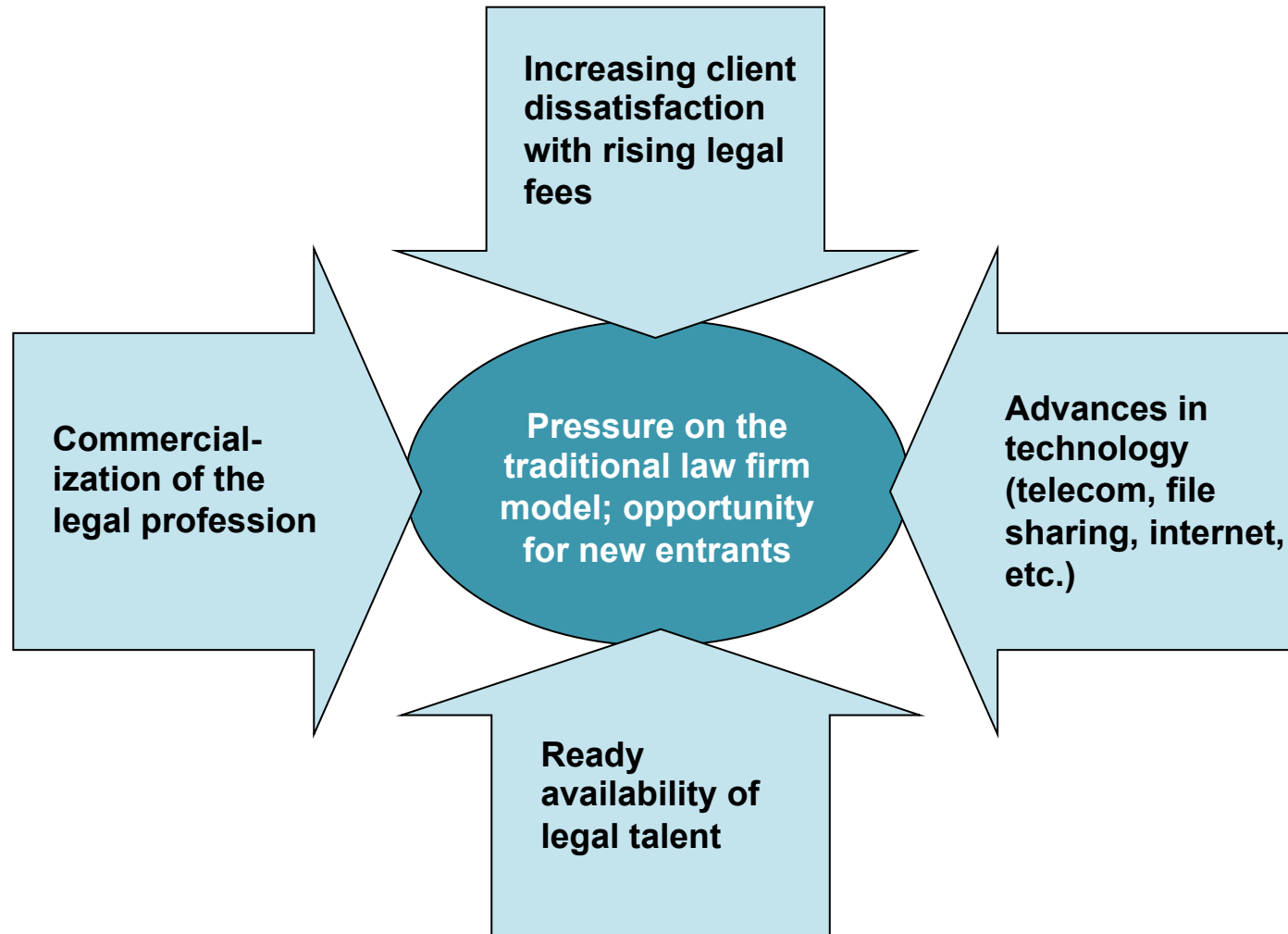
Rigid work structures

- Firms slow/unable to embrace flexible schedules, telecommuting, part-time



BigLaw ill-prepared to comfortably weather a significant economic downturn

CHANGING WINDS IN THE LEGAL INDUSTRY CREATE FAVORABLE CONDITIONS FOR NEW DELIVERY MODELS

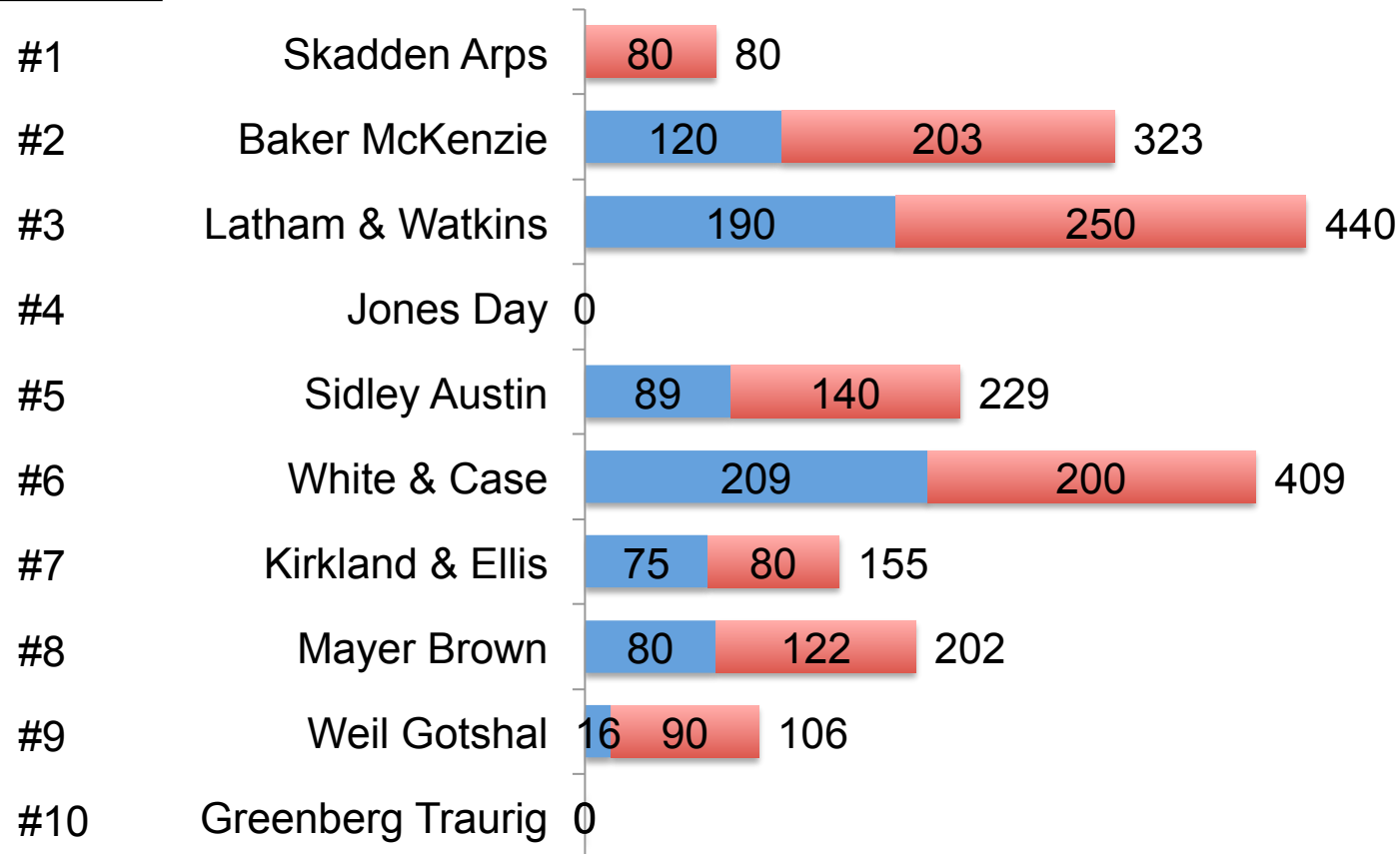


REPORTED LAYOFFS AT AMLAW TOP 10 IN 2009

Total attorneys and staff laid off, by firm

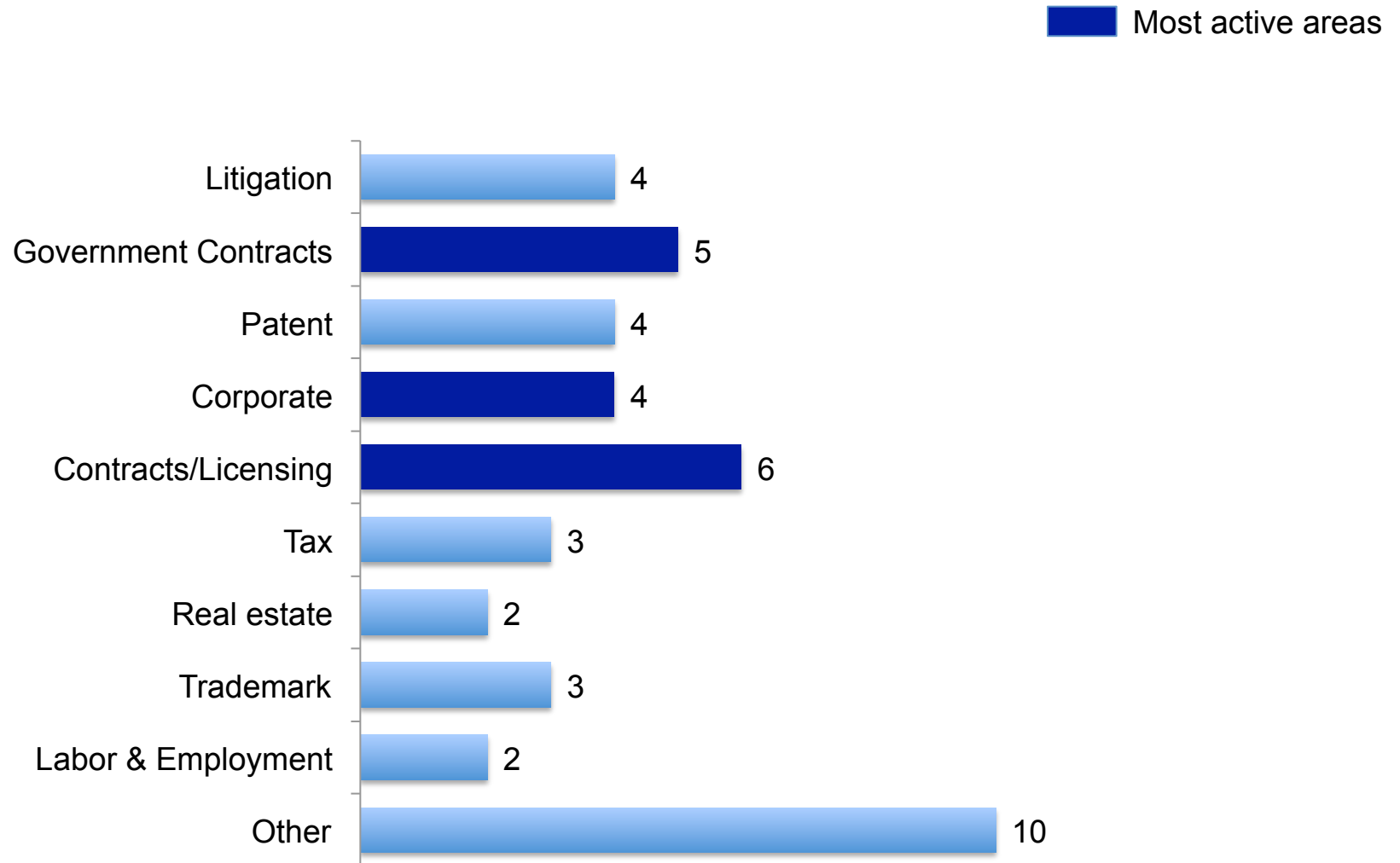


AMLAW 100 Rank



FULL SERVICE OFFERING, WITH A TRANSACTIONAL EMPHASIS

No. of attorneys, by subject area



AVERAGE FIRST YEAR ASSOCIATE SALARY, AMLAW 100

\$ Thousands

