Potomac Law Group: A Modern Twist on the Traditional Firm

Program on the Legal Profession, Harvard Law School
November 19, 2013
“I’m certain I speak for the entire legal profession when I say that the fee is reasonable and just.”
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

Attorney headcount
AMLAW 100

<table>
<thead>
<tr>
<th>Year</th>
<th>Attorney Headcount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986</td>
<td>25000</td>
</tr>
<tr>
<td>2008</td>
<td>82000</td>
</tr>
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</table>

Gross revenues
AMLAW 100, $ billions

<table>
<thead>
<tr>
<th>Year</th>
<th>Gross Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986</td>
<td>7.2</td>
</tr>
<tr>
<td>2008</td>
<td>67</td>
</tr>
</tbody>
</table>

228% increase from 1986 to 2008
831% increase from 1986 to 2008

AVERAGE ANNUAL PROFITS PER PARTNER vs. INFLATION

AMLAW 100; $ Thousands

Profits double in real terms

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...

- 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 began exploring ways to keep fees down

In-house lawyers per $1 billion of revenue

- 2.93 in 2005
- 3.52 in 2007

Source: Altman Weil Legal Department Benchmarking Survey, companies with annual US revenue >$5B
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

88% increase over the period, compared to inflation (37%), non-law firm legal jobs (e.g., prosecutor, 40%)

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

Source: National Association for Law Placement (data for firms with more than 250 attorneys).
"This is where things started getting really weird."
### PROMINENT BIGLAW LAYOFFS POST-RECESSION

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

<table>
<thead>
<tr>
<th>Firm</th>
<th>Attorneys</th>
<th>Staff</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dewey &amp; LeBoeuf</td>
<td>382</td>
<td>520</td>
<td>902</td>
</tr>
<tr>
<td>Allen &amp; Overy</td>
<td>260</td>
<td>357</td>
<td>617</td>
</tr>
<tr>
<td>White &amp; Case</td>
<td>279</td>
<td>300</td>
<td>579</td>
</tr>
<tr>
<td>DLA Piper</td>
<td>189</td>
<td>382</td>
<td>571</td>
</tr>
<tr>
<td>Clifford Chance</td>
<td>256</td>
<td>201</td>
<td>457</td>
</tr>
<tr>
<td>Latham &amp; Watkins</td>
<td>190</td>
<td>250</td>
<td>440</td>
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<tr>
<td>Orrick Herrington</td>
<td>140</td>
<td>235</td>
<td>375</td>
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<tr>
<td>Linklaters</td>
<td>206</td>
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<td>356</td>
</tr>
<tr>
<td>Baker McKenzie</td>
<td>127</td>
<td>215</td>
<td>342</td>
</tr>
<tr>
<td>Mayer Brown</td>
<td>146</td>
<td>184</td>
<td>330</td>
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## NOTABLE DISSOLUTIONS 2008-2012

<table>
<thead>
<tr>
<th>Firm</th>
<th>Description</th>
<th>Contributing factor</th>
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</thead>
<tbody>
<tr>
<td>HOWREY</td>
<td>• Litigation, IP, Antitrust giant&lt;br&gt;• 700 attys; $573M rev&lt;br&gt;• 17 offices worldwide</td>
<td>• Guaranteed minimums to lateral partners&lt;br&gt;• Large contingent fee case wrapped up</td>
</tr>
<tr>
<td>1956-2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heller Ehrman</td>
<td>• General practice firm&lt;br&gt;• 730 attys; $508M rev&lt;br&gt;• American Lawyer Top 20 “A-List” firm</td>
<td>Contingent of 15 intellectual property partners defected to Covington &amp; Burling</td>
</tr>
<tr>
<td>1890-2008</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dewey &amp; LeBoeuf</td>
<td>• General practice firm&lt;br&gt;• 1,040 attys; $782M rev&lt;br&gt;• 26 offices worldwide</td>
<td>• Difficulty meshing firm cultures post-merger&lt;br&gt;• High-priced laterals</td>
</tr>
<tr>
<td>1909-2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>THELEN</td>
<td>• Infrastructure projects, electrical utilities&lt;br&gt;• 550 attys; $400M rev&lt;br&gt;• 8 offices worldwide</td>
<td>• Post-merger integration troubles&lt;br&gt;• Ill-timed partner defections</td>
</tr>
<tr>
<td>1924-2008</td>
<td></td>
<td></td>
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3. THE RISE OF THE NEW MODEL FIRMS

“We do all those old tricks electronically now.”
NEW MODELS OFFER IMPROVEMENTS ON MANY DIMENSIONS

<table>
<thead>
<tr>
<th>BigLaw</th>
<th>New model firms</th>
</tr>
</thead>
</table>
| • Expensive Class A space downtown  
• Excess capacity  
• Largely tied to high hourly rate  
• High leverage  
• Legacy IT systems  
• Support staff required  
• Slow to adapt  
• High minimum billables  
• Rigid schedules  
• Pressures for client development  
• Up-or-out culture | • Home offices  
• Client sites  
• Flexible office space  
• Reduced hourly rates  
• Fixed fee, tiered billing, and other Innovative fee structures  
• Cloud-based  
• Software as a service  
• No/reduced billable hour minimum requirements  
• Part-time/flexible schedule options  
• Telecommuting |
RISE OF THE NEW MODELS

Type of work

- Routine
- Medium complexity
- Sophisticated

Segment

- New model law firms
- High end legal staffing
- Legal process outsourcers

**Type of work**

- Routine work
- Medium complexity
- Sophisticated work

**Segment**

- New model law firms
- High end legal staffing
- Legal process outsourcers

**Logos**

- Clearspire
- VLP
- Potomac Law Group
- Rimón
- Axiom
- Pangea3
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
Example attorney: Luisa Caro, formerly 7th year at Sidley Austin
Hourly bill rate ($)

Bill rate at Sidley | Reduced cost of space and furnishings | Reduced partner leverage | Elimination of summer program, etc. | No junior associates to train | Lower pay | Bill rate at PLG

600 | 20 | 205 | 15 | 40 | 20 | 300

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-merge
PLG: GREATER OPPORTUNITY FOR ENTREPRENEURIAL ATTORNEYS

Sample attorney profile #1

William A. McGrath
Partner
wmcgrath@potomaclaw.com

Potomac Law Group, PLLC
1300 Pennsylvania Avenue, NW
Suite 700
Washington, D.C. 20004
Office: (202) 525-3745
Fax: (202) 316-7707

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, 1996
- 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, dissolvable 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
• 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
Sample attorney profile #3

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
- J.D., cum laude, Georgetown University Law Center, 1997, Georgetown Law Journal
- B.A., magna cum laude, Harvard College, 1994, Biochemical Sciences and Social Studies

BAR ADMISSIONS
- District of Columbia
- Maryland
- New York
- U.S. Court of Appeals for the Federal Circuit
- U.S. Patent and Trademark Office

PROFESSIONAL EXPERIENCE
- Finnegan, Henderson, Farabow, Garrett, and Dunner LLP, Associate
- Sidley Austin, LLP, Associate
- FastPatentPartner, LLC, Founder and CEO

REPRESENTATIVE MATTERS
- 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. Andrx - 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 Biomeris) 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.

- 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
"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

- Commercialization of the legal profession
- Increasing client dissatisfaction with rising legal fees
- Ready availability of legal talent
- Advances in technology (telecom, file sharing, internet, etc.)

Pressure on the traditional law firm model; opportunity for new entrants
REPORTED LAYOFFS AT AMLAW TOP 10 IN 2009
Total attorneys and staff laid off, by firm

<table>
<thead>
<tr>
<th>AMLAW 100 Rank</th>
<th>Firm</th>
<th>Attorneys</th>
<th>Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1</td>
<td>Skadden Arps</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>#2</td>
<td>Baker McKenzie</td>
<td>120</td>
<td>203</td>
</tr>
<tr>
<td>#3</td>
<td>Latham &amp; Watkins</td>
<td>190</td>
<td>250</td>
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<tr>
<td>#4</td>
<td>Jones Day</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>#5</td>
<td>Sidley Austin</td>
<td>89</td>
<td>140</td>
</tr>
<tr>
<td>#6</td>
<td>White &amp; Case</td>
<td>209</td>
<td>200</td>
</tr>
<tr>
<td>#7</td>
<td>Kirkland &amp; Ellis</td>
<td>75</td>
<td>80</td>
</tr>
<tr>
<td>#8</td>
<td>Mayer Brown</td>
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<td>122</td>
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<tr>
<td>#9</td>
<td>Weil Gotshal</td>
<td>16</td>
<td>90</td>
</tr>
<tr>
<td>#10</td>
<td>Greenberg Traurig</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
FULL SERVICE OFFERING, WITH A TRANSACTIONAL EMPHASIS
No. of attorneys, by subject area

- **Litigation**: 4
- **Government Contracts**: 5
- **Patent**: 4
- **Corporate**: 4
- **Contracts/Licensing**: 6
- **Tax**: 3
- **Real estate**: 2
- **Trademark**: 3
- **Labor & Employment**: 2
- **Other**: 10

*Most active areas*
AVERAGE FIRST YEAR ASSOCIATE SALARY, AMLAW 100

$ Thousands

6% annual growth