

Size Matters : How Big Should a Law Firm Be?

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How big should a law firm be in an increasingly challenging and competitive legal marketplace? The optimal firm size for a particular lawyer will depend upon that lawyer's objectives. This article will examine some of the advantages and challenges of working in big, small, and midsize law firms and the competitive advantages that each size firm has with respect to the others. The article will also introduce you to a lawyer who prospered as a partner in Big Law but decided to launch her own boutique trusts and estates law firm instead.

Advantages of Big Law

Partners and associates in the biggest firms make very good incomes. The starting salary for Class of 2017 associates in Cravath—Salary Scale firms is \$190,000 per year, and the salary goes to \$340,000 a year for the Class of 2010. Large and long-established firms will continue to benefit from their specialized knowledge when it comes to handling complex matters, solid client bases, reputational advantages, cadre of attorneys, and the brand they have established over time. In addition, these firms often provide excellent training to young associates, sophisticated and challenging practice opportunities, and smart, capable colleagues. Big firms also provide the prestige that can create leadership opportunities for the lawyer in her community. On the other hand, big firm life almost always means long hours that challenge the lawyer's work-life balance. Also, all big firms are not created equal. Thompson Reuters's 2017 State of the Legal Market Report concluded that firm size by itself does not explain profitability. According to the report, compared to AmLaw 100 firms and midsize firms, AmLaw Second 100 firms had the weakest performance in terms of demand for their services and fees earned as well as the second weakest performance in productivity.

How About Midsize Firms?

Some commentators argue that midsize, "fuller-service" firms are now at a competitive disadvantage to large firms and boutique law firms and this disadvantage will only grow in the future. They posit this on the premise that large firms have more resources of every type: funds, lawyers, technology, institutional knowledge, and legal talent. Boutique firms pose a challenge to midsize, general practice firms by bringing the efficiency of their narrow focus and their state-of-the-art expertise to solving specialized legal problems. But don't count out midsize firms. In the view of Thompson Reuters's Legal Market Report, these firms can attract business from large corporate clients because, in general, they have an hourly

price advantage over large firms—in the range of 25-30 percent for lawyers of equivalent experience. Consequently, corporate clients are increasingly unbundling their legal needs and assigning their legal work to midsize and boutique law firms for that reason.

Moreover, from the point of view of the practicing lawyer, a midsize firm provides practice flexibility. There is a greater chance that the attorneys in such firms are in sync. Midsize firms are generally less unwieldy than large firms. It is easy to avoid stuffiness. In smaller law firms, one can still specialize in an area but can do so more broadly. One need not handle just leasing, financing, or acquisition-disposition. The lawyer can do all three in a single general corporate, real estate, or finance practice. Attorneys in midsize firms can both plan estates and litigate estate issues; they don't have to choose one or the other. Non-institutional clients better identify with the scale of enterprise—there is less of a conveyor belt feeling. Write-offs are more easily made—the decisions are more often one-stop. (Clients like that.) Clients appreciate that midsize firms don't have to pile attorneys on projects. There is more room for experimentation.

On the other hand, some new technology is unaffordable for midsize firms, or there may not be enough business to justify the investment. These firms can't handle everything that comes along. So, they need to establish relationships with other reliable firms who can provide equivalent service. Marketing is more difficult. The attorney needs to sell the firm's brand; the Big Law firms already have the brand, and individual attorneys don't need to take that step. Getting referrals is more difficult. It is safer to refer a client to a mega-firm. Getting top-level talent is more difficult. Medium-size firms can't compete with Big Law starting salaries.

What Makes Small Firms Thrive?

Now, what about the often-overlooked solo practitioners and small firms? According to Lawyer Demographics for 2016, published by the ABA, 75 percent of lawyers were in private practice in 2005 (the most recent year for which statistics were cited); 63 percent of them practiced in firms with five or fewer lawyers, with 16 percent in firms of 100 or more lawyers and the balance in midsize firms.

Boutique law firms may not have many attorneys, but, unlike those do-it-all small law firms, where most of today's lawyers can be found, boutique law firms can offer best-of-class specialized service in competition with Big Law. Boutique law firms can position themselves as nimbler, more sharply focused service providers and can take advantage of their ability to offer client-friendly fee structures. Boutiques are often made up of highly talented lawyers who were trained by Big Law and achieved success either working at or challenging Big Law.

Where does that leave small firms and sole practitioners who do not offer this best of class service and who are being forced to compete with internet-provided, commodity legal products? They will face the greatest challenges from technology and increased competition. Even now, they are the ones most affected by alternative so-called solutions provided by the likes of LegalZoom, Rocket Lawyer, and LawDepot. We are all familiar with how consumer tax preparation software has progressed from a fill-in-the-boxes approach to the current intelligent question and response structure. There is no reason to believe that a similar approach will not be applied to commodity transactions such as leases, sales con-

tracts, and powers of attorney, let alone higher hanging grapes such as notes, mortgages, easements, and similar common documents prepared by lawyers. The key here is to recognize that a lawyer whose principal approach to practicing law is adapting common legal forms will be threatened by technology.

How Can Small Law Compete?

For those solo and small-firm lawyers, there are at least two possible roads to success. First, there will be rich rewards for lawyers (and non-lawyers) who take advantage of burgeoning technology. They will exploit the market for the standardized legal services that appeal to large groups of people. They are the ones who will start the next generation of LegalZoom and its progeny. Second, lawyers who find a market niche, be it an ethnic client base or a legal specialty, and then promote themselves effectively, can do very well. The key for a small-firm lawyer is to be something the others aren't. Their market advantage is in personal service and pricing and perhaps in nimbleness to adjust to market forces. General practice firms, the kind that rely on real property or trusts and estates work, need to step up their service levels and offer attractive pricing. The first imperative is to attract clients. One approach is to focus on a niche practice, such as pursuing a market among the elderly, within a particular ethnic group, or with clients not familiar with our language or customs. Other likely market niches will be specializing in solving the problems clients consider to be of great value to them personally, such as how to deal with issues involving older parents or special needs siblings, estate preservation, or family business succession. Or, a small firm can identify problems in which the potential rewards make clients more willing to pay significant fees—the transformation of a gas station property into an office building, tax savings, or the preservation of a family business across the generations.

All of these niches focus on clients who want personal attention. Many consumers of legal services will continue to seek a personal relationship with a trusted advisor. So, emphasizing personal skills, especially reliability and communications skills, will be a bulwark against impersonal competitors—technology and remote lawyering. Another area where small firms have flexibility is in pricing. In the past, except where forced to use a lawyer, the core clients served by solo practitioners and small firms—consumers and businesses alike—have been very price-sensitive. Often, they have foregone using a lawyer. That sensitivity will not be going away. What can change, however, are the prices charged for legal services and the amount of services that can be produced in a given time. That's giving value. A key way to be able to reduce prices and at the same time increase profits is by investing in and using technology. Staffs can be smaller. More billable work can be done in the same workday. Increasingly, software will automatically prepare and review common documents. Right now, accountants use tax preparation software as do consumers, but the accountants' versions are stronger. The special advice that accountants and lawyers can provide is enhanced by the software's ability to identify issues and the accountant's or lawyer's ability to rank those issues for his or her client. Even physicians are adopting software to enhance their own diagnostic abilities.

The Lawyer as an Entrepreneur

Perhaps the most important requirement for a lawyer who starts her own firm is the entrepreneurial spirit. Beth Wood is a trusts and estates lawyer practicing in North Carolina who has put these theories to the test by moving to her own firm specializing in trusts and estates practice from a firm of over 300 lawyers where she practiced for almost 20 years. Beth credits her former firm with providing her with

excellent training in her chosen specialty. There, she enjoyed a sophisticated estate and tax planning practice and worked with top lawyers and great clients. She also earned a good income as an income partner in the firm. Beth's experience is an example of how successful small firms are blossoming throughout the country.

Big Law to Small-Firm Practice. In June 2017, Beth made the decision to leave Big Law and start her own firm. "I found myself at a precipice and needed to make the decision to stay in the benign comfort of Big Law, where I made decent money and could coast to retirement in 15 years, or jump into the great unknown and discover my true potential. With the encouragement of my family and many friends and advisors in the trust and estates world, I decided to jump. It has been one of the most rewarding decisions of my life."

Clients. Although Beth decided to leave Big Law without any assurances from existing client relationships, many clients chose to follow her to her new practice without any qualms about location or size of practice. Because of the intensely personal nature of trusts and estates, many claimed that they cared more about the individual lawyer who would take care of them and their families than they did about the firm name. The network of attorney and other experts she built while working in Big Law has redounded to her benefit. Several who confessed that they had been hesitant to send clients to Big Law for fear that high legal fees for estate planning would negatively impact their own client relationships have been a source of steady referrals to the new firm. Because of her entrepreneurial nature, Beth was invited to join a think tank comprising professionals who service high net worth closely-held business clients, including a financial advisor, a private equity advisor, a merger and acquisition partner at a Big Law firm, and others. Together they share case studies and discuss creative solutions for clients who have gone to market or may go to market in the near future. Finally, new client referral connections through financial advisors and solo or small firm attorneys continuously develop.

Finances. Beth slashed her billable rate by 20 percent and hired a young associate who had been practicing on her own for a few years. While not able to offer a Big Firm salary, the new firm does offer 401(k) benefits, a flexible work environment, and an experienced trust and estates attorney who is committed to a mentoring process. The combination of lower rates and sophisticated experience allows the new firm to offer cost-effective services covering a broad range of legal problems, from estate planning for everyday families to more complex planning for high net-worth closely-held business owners.

Secrets of Success?

Even though not everyone has the same entrepreneurial spirit, the technology revolution makes it more possible than ever to create a boutique law firm. There are service providers who furnish the business support for such firms (and even solo practitioners) in the form of practice branding, client engagement, billing, intake, conflict checking, and legal research. There are providers for myriad back office functions. Lawyer-to-lawyer networks have been and will remain a rich source of referrals, specialized information, and shared work.

Finding good mentors and professional affiliates will be increasingly important to navigate future business opportunities. Technology can be used to create virtual offices. For example, cloud storage combined with Office 365 and Exchange Online can economically substitute for the expensive server and

staff one needs to keep systems current and ensure data and messaging security. Using what is available on the market, even today, will allow solo practitioners and midsize firms to enjoy the benefits of a personal, flexible working arrangement. Even today's off-the-shelf technology applications can lower overhead and other expenses and allow for moderate fees while preserving, even enhancing, a lawyer's personal income. Making technology an investment and not an expense will inure to the benefit of all law firms, especially cost-competitive smaller ones.

There is no optimal size law firm. Every size has its own advantages and disadvantages. Big Law offers a corporate culture, centralized management, teams of highly qualified (and often specialized) lawyers, and a brand that attracts clients. Midsize firms can offer more competitive pricing and a similar structure but at a much smaller scale. Small firms offer their lawyers more work-life balance and an opportunity to personally run a business and make business decisions tailored to the lawyer's own needs.

For a lawyer, firm size seems to correlate to job satisfaction. Measured differences are small, but they do exist. Recent survey research by Law 360, a subsidiary of LexisNexis, concludes that lawyers in midsize firms have greater job satisfaction than their counterparts in small and big firms. Those surveyed cited opportunity for advancement, the ability to balance work and lifestyle, greater flexibility in working with clients, and a general feeling of accomplishment as the reasons for job satisfaction. Some among the respondents pointed out that these advantages compensated for lower salaries than those at Big Law.

The legal industry is facing disruptive changes. Professionals in other fields have faced disruptive changes, some successfully and some not. The successfully surviving lawyers and law firms will be those who grab the sails and make the turns ahead of the winds of change. What is clear is that technology and increased competition from non-lawyers will present challenges across the legal landscape. Everyday solutions to commodity legal situations will be provided by non-lawyers. Technology will also increase the importance of a lawyer's basic tool box however she chooses to practice. That tool box must contain the lawyer's legal knowledge but also those communications, marketing, and technical skills needed to provide clients with practical, cost-effective solutions. To thrive, and sometimes even to survive, all lawyers will need to be the resource for what even advanced cookie-cutter technology cannot provide—deeply personal service and surgical solutions to their clients' problems. n