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These Are the Obstacles That Have Firm Leaders Most Concerned in 2022

Talent, 'black swan events' are among the issues managing partners are watching.

By Andrew Maloney | March 30, 2022



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The legal industry fared extremely well financially last year, and most firm leaders will tell you they're at least cautiously optimistic about the rest of this year. But there are always obstacles mixed in with the opportunities for Big Law.

Despite robust firm financials and a resilient economy, the pressures of a highly competitive market mixed with the unpredictable fallout from seismic world events, such as the Russian invasion of Ukraine and surges from COVID-19 variants, present real challenges that firm leaders are grappling with.

So what has their attention? Below are a few key obstacles and issues that firm leaders have their eyes fixed on so far in 2022.

Balance

Record transactional activity has boosted big firms to unparalleled financial heights. But a few firm leaders said they're trying to make sure the scales don't tip too far toward deals.

A pickup in litigation is expected this year and next (<https://www.law.com/americanlawyer/2022/03/25/big-law-betting-on-a-litigation-resurgence-in-2022-and-into-2023/>), in part because of pent-up demand from the pandemic. But real estate, tax, corporate and mergers and acquisitions work accounted for 37% of the total hours tracked at the end of 2021, according to the latest Peer Monitor Index report (<https://www.law.com/international-edition/2022/02/14/law-firm-expenses-surge-dampening-outlook-for-2022-378-188838/>). That's a proportional increase of 2.6 percentage points in just one year, and five points since 2015.

It's unclear when the deal boom could wind down. Big Law leaders want to be prepared with other offerings when it does. Plus, a strong practice mix is part of firms' identities.

"We take pride in the balance of our practice," said Tom Fitzgerald, chair of Winston & Strawn. "Obviously last year corporate pulled ahead. That's the market. But we want to maintain diversity in our practices because it's hard for us to predict what's going to happen in three to four years."

That means continuing to invest in practices even when they aren't at their apex. Bankruptcy work, for example, didn't blow up the way many firms anticipated at the start of the pandemic, due largely to government stimulus staving off that kind of activity.

However, firms are largely optimistic about growth in the area going forward. Around 82% of respondents on the aforementioned firm business leaders survey last fall said they expect either moderate or high growth in bankruptcy law.

Jon Van Gorp, chair of Mayer Brown, said his firm has continued to build a deeper restructuring bench in anticipation of that growth, "so when things do turn, we are really well-positioned and have the scale we need to help our clients with those challenges when they arise.

"We have the ability to invest in areas when we have the opportunity to do so, ahead of them becoming really overheated," he said. "You can't really hire restructuring lawyers when you're in the middle of a lot of restructuring work, as easily as you can when market conditions are a little less favorable for that kind of work."

Talent Pool

Firms are always interested in good people. But even if demand slows in 2022, firm leaders say talent—acquiring it, nurturing it and paying it—will remain a high priority. For some, that will mean evolving with new markets, boosting nonequity partners or creating new tracks of professional attorneys.

According to the most recent Law Firm Business Leaders Survey, lawyer recruitment and retention, staff poaching and associate salaries were listed as the top three high-risk factors to firm profitability.

Madeleine McDonough, chair of Shook, Hardy & Bacon, said talent is something she focuses on “literally every day.” She said whether it’s one individual, a small group, large group, or even a firm, bringing on talented lawyers and staff is “always top-of-mind” and that the firm is now a bit more willing to add talent beyond its current map.

“One thing we learned during COVID is how to be a little more efficient, and maybe that’s smaller geographic footprints within a location,” she said. “Location in some ways has become less important. But there are people really attached to a particular location. And if they’re a really A-plus trial lawyer, we try to accommodate them and keep them in the place they’re happiest.”

Other firms have boosted their nonequity ranks to keep up with demand. At Winston & Strawn, which saw more retirements over the last couple of years than usual, the firm increased its nonequity head count by about 11.5% in an effort to get more experienced lawyers to keep up with the transactional workload.

Fitzgerald, the firm chair, said that kind of attrition probably won’t be as heavy this year. But he said he’s going to stay focused on ensuring the firm has “enough high-level talent to do the work.” That includes “gladly” continuing to match the market on associate salaries.

“One of the things we spend the most time on is talent development, so we are not going to worry about what the market is for associates,” he said.

Firms and lawyers have already been rethinking partner tracks in Big Law (<https://www.law.com/americanlawyer/2021/11/08/survey-suggests-the-path-to-law-firm-partnership-is-getting-longer/>), both because it helps with demand and because some lawyers don’t aspire to work as many hours or become rainmakers at a firm. That could continue in 2022 and beyond for firms as they continue to grapple with and add talent.

Leaders at Michigan-based Honigman said they’ve now got about 20 professional track lawyers working on things such as due diligence and lease review matters.

“They’re obviously not as well-paid as a partner-track lawyer. But they’re very good,” said David Foltyn, the firm chair and CEO. “They get paid well and more and more lawyers are using that track.”

‘Fear Itself’

To paraphrase Franklin Roosevelt, sometimes the thing you have to fear is fear itself.

Point to any one of the crises that have blanketed the news over the last several months—inflation, the war in Ukraine, the COVID-19 pandemic—and it’s on the front burner for law firm leaders.

Whether logistically, economically, culturally or all of the above, all of those events have touched the legal industry. Inflation has raised business leaders’ hackles and prompted extra costs. Russia’s invasion has caused big firms to shutter offices or drop clients. The pandemic has forced a “multiyear reckoning” with hybrid work

(<https://www.law.com/americanlawyer/2022/03/14/a-multi-year-reckoning-hybrid-work-is-a-challenge-that-isnt-going-anywhere/>) and firm values.

All of them should give leaders an appreciation for how much external forces, or even so-called black swan events, can shape their business.

"I think for any leader, you've got to be more and more humble about the fact that those unpredictable events need to be anticipated," said Pat Whalen, chair and CEO of Spencer Fane.

That's not to mention that many feel a kind of existential dread as the drumbeat of bad news marches on. As COVID-19 remains a threat, too, that fear is practical. Whether it's because of the virus itself, or simply because remote work is the new norm in the workplace, firm leaders remain concerned about their employees' well-being.

"For our clients and for us, it's almost more psychological. In some ways, it's been hard for people to work through this. So I think the longer it continues, the more stress and strain it puts on a whole bunch of things, including mental health," said Paul Eberle, CEO of Husch Blackwell.

Still, Eberle said, "we tend to focus on the things we can control." Arguably the best way to deal with the big, exogenous unknowns is to focus on the tasks at hand, and remember that firms have come a long way in a short amount of time.

"Go back two years. We survived a literal shutdown of the economy, and came through that," he said. "So I guess whatever is still to come, while serious and something we certainly have to think about and plan for, I'm not as intimidated by it given what we've all already lived through."