2017 marked a period of uncertainty for the legal industry. Tumultuous political events in the second half of 2016, beginning with the Brexit vote and culminating in the unexpected election of Donald Trump, sent shockwaves around the world and left many in the legal industry wondering what these events might mean for their businesses. Although these changes initially proved quite disruptive, by the end of 2017, business had returned somewhat to normal—or at least a new normal. The regulatory environment, however, remains unpredictable, and this lack of clarity coupled with the potential for more political volatility could keep the legal profession on uneven footing in 2018.

In the midst of this political and economic ambiguity, law firms and legal departments alike will continue to be under increasing pressure to drive down costs and increase productivity. While law firms are being asked to charge less for doing more, legal departments are being asked to do more with less. As the legal industry sets an even sharper focus on profitability, law firms and corporations are turning to analytics to evaluate productivity and growth, spot emerging business trends and build new pricing models. We’re also seeing greater adoption of artificial intelligence to automate and streamline routine functions and processes. These factors will continue to have a profound impact on the legal profession overall.

As we turn to 2018, firms must continue to look deep within to better understand their strengths and how to leverage them for their clients, and in-house teams must continue to explore more efficient means of resource allocation. Great opportunities are available for those who are willing to adapt to the evolving needs of the profession and the changing conditions of the marketplace.

“\nIn the midst of this political and economic ambiguity, law firms and legal departments alike will continue to be under increasing pressure to drive down costs and increase productivity.”\n"
LAW FIRMS AND PARTNERS

INDUSTRY RETRENCHING

Political uncertainty has not only affected the financial markets but the legal market as well. Potential changes to financial services regulations under Dodd Frank, together with the new administration’s initial thrusts at revising existing antitrust, trade, energy and environmental policy, has kept law firms scrambling to maintain their profitability as clients struggle to navigate this uncertainty. So far, this has cut both ways: Deal work is down, but the regulatory uncertainty has kept lawyers in these related practices busy.

“The law firms that will fare the best in 2018 are the ones that realize they can’t be everything to every client. We believe that those firms that know what they are and stick to what they’re good at will ultimately prevail.”

The law firms that will fare the best in 2018 are the ones that realize they can’t be everything to every client. We believe that those firms that know what they are and stick to what they’re good at will ultimately prevail. Stratification in the market will continue as top-tier firms appeal to a different set of clients than middle-market firms. These competitive differences will keep firms at all tiers afloat—but their respective ranks will surely thin.

Building on the increased merger activity of 2016 and 2017, large law firms will continue to expand their global reach through mergers and acquisitions, allowing them to stay competitive. Though middle-market firms remain robust, there is a reduction in the number of single-city firms with national practices—the ones that remain are ripe for acquisition.

LATERAL MARKET

Firms are taking a proactive, yet cautious approach to the lateral market. Partners with profitable practices and desirable skill sets are the most coveted, with the highest priority placed on partners whose clients are portable. Firms continue to generally prefer groups over single partners, though there is danger in a myopic preference for groups: “Swinging for the fences” also results in overlooking single partners who would be a solid addition to the firm.

In Washington, the market for top-flight government lawyers remains strong. Although the market quickly flooded following the election, firms eventually returned to hiring mode by the end of the summer. However, hundreds of government positions remain unfilled and top private practice lawyers have seemed more reluctant to join this administration than previous ones. Accordingly, while there are fewer “holes” to fill at top law firms because fewer partners are leaving their firms to join the administration, it may also mean there are fewer lawyers for firms to compete for at the end of the administration.

OPERATIONS MANAGEMENT

Managing firms in this environment is not an easy task, and capitalizing on strengths is vital. More firms are taking a holistic approach to talent management, recognizing that running today’s law firms requires not only legal talent but also business management talent. As such, managing partners are increasingly looking to business professionals
to run firm operations. More often than not, lawyers have stepped away from daily operations and now rely on experienced professionals in finance, strategy, business development, marketing, technology, cyber security, pricing, knowledge management and talent. That also includes recruiting, developing and retaining personnel at every level, from lateral partners to office clerks. This emphasis on efficient operations applies not only to the support side of the house, but also to practice groups, many of which are now running as business lines across geographies, both domestic and international, on a profit and loss basis.

FOCUS ON PROFITABILITY

To cope with these uncertain times, law firms are increasingly focused on profitability and looking for innovative approaches to add to the bottom line. More law firms are shedding unprofitable partners and practice groups and closing unprofitable offices. Firms are placing a much greater reliance on metrics and quantitative analysis when evaluating every aspect of their business. They are also utilizing a combination of new processes enhanced with a plethora of new vendor-created applications to increase efficiencies and keep costs down.

Firms that once shied away from automation are now increasingly utilizing artificial intelligence to enhance their service offerings. Alternative pricing models are becoming more popular with middle-market firms that are working to carve out more business by improving efficiencies, collaborating more closely with in-house counsel or sharing outcome risks with their clients.

Instead of competing against other law firms for new business, firms are increasingly worried about losing market share to third-party providers and in-house legal teams. Indeed, firms’ biggest competitors are often not other firms but rather clients themselves.

LAW FIRM ASSOCIATES

SLOWDOWN IN LATERAL MOVEMENT

The uncertainty and contradictory signals in the legal profession are not restricted to law firm leadership and management; rather, it’s reverberating at all levels of the associate market. For corporate associates, the lack of financial security due to an uncertain administration, coupled with a slowdown in deal work, led to less lateral movement in 2017. The litigation market, which had finally rebounded, also softened in the face of the uncertainty and the government hiring freeze. Many associates decided to wait it out in their current positions, figuring that there wasn’t better work to be had elsewhere.

While lateral movement in the associate ranks overall was down in 2017, sourcing and recruiting qualified, experienced mid- to senior-level associates continues to be difficult because there are fewer available candidates. The reason for this dearth of experienced associates boils down to the market forces that were in play when they graduated from law school: Demand for legal services plummeted during the 2008 recession, forcing law firms to hire fewer associate in those down years. The associates who were hired in the years following the recession are now rising through the ranks and bringing with them valuable experience—and they are more likely to stick it out at their firm with the hope of making partner.
Challenges exist for them as they continue to face an increasingly long and unpredictable path to partnership. As the path lengthens, the lack of transparency and upward mobility frustrates the more senior associates. Firms seem content to focus on propping up their lateral partner hires at the expense of strong succession planning with their current rising associates. These associates observe firms hiring new partners who may ultimately affect their ability to move upward. How this impacts the profession overall remains to be seen, but some questions linger about how well law firms are setting themselves up for future success.

**PARTNERSHIP TRACK**

Although the path to partnership is longer and more ambiguous, associates don’t find it any less appealing: According to our findings, many associates want to grow within their firms and become partners. Major, Lindsey & Africa’s 2017 associate study, “Minding the Gap: Do Today’s Associates Defy Generational Stereotypes?”—conducted in association with Above the Law—found that millennial attorneys in BigLaw take professional growth seriously and diverge from the stereotypes of their career-hopping peers in the general workforce. In fact, 70% of millennial lawyers describe themselves as “loyal” to their firm, and more than a third (33.9%) of millennial lawyers in BigLaw aspire to partnership, despite the industry-wide notion that achieving partnership is difficult and undesirable in the current environment.*

Sixty percent of senior associates with more than five years of practice hope to make partner.

This increased loyalty is the result of several factors:

- First, the 2016 associate pay raise at some of the top AmLaw 100 firms, which came as a pleasant surprise, engendered more allegiance to firms.
- Second, moving into in-house positions, which had previously been a desired career path, is becoming less so. The workload for in-house lawyers has increased, which is leveling the playing field for work-life balance, and the increased gap in compensation is not compelling movement to in-house roles.

In this environment, law firms are placing a higher emphasis on associate training and retention. Increasingly, firms are adding educational programming that not only satisfy Continuing Legal Education requirements but also incorporate communications, branding and some business development. Meaningful and regular training helps associates feel that the firm has invested in them, which in turn creates a sense of loyalty.

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*Credit: “Minding the Gap: Do Today’s Associates Defy Generational Stereotypes?”*
SQUEEZING PROFIT

The aftershocks of the summer 2016 associate salary hike are still being felt throughout the industry, and as a consequence, some firms continue to feel squeezed as they try to keep pace. To show their value, associates are grasping the importance of business development and looking to build their skills in this area. According to MLA’s associate survey, more than two-thirds of survey respondents (68%) reported spending 10% or less of their time on business development. However, less than a quarter reported they were satisfied with the amount of time spent on business development.

As law firms struggle to compete in a crowded marketplace, and the business of law continues to shift and adapt to satisfy pressures on resources and time, the exceptional associate not only has to have a sound legal mind but must also be adept at attracting and retaining clients.

IN-HOUSE LEGAL DEPARTMENTS

Like law firms, in-house legal departments face changes as a result of the shifting nature of their work and the broader business landscape across the nation and around the world. While 2016 saw rapid growth of in-house teams, 2017 saw growth temporarily plateau as leaders of large legal teams weighed their options before determining their next moves.

IN-HOUSE HIRING

To understand where the industry stands now, it’s important to look back at the years immediately following the recession. Regulations put in place from policies such as Dodd-Frank and the Affordable Care Act and the impending General Data Protection Regulation that goes into effect in the European Union in 2018 have had major impacts on business operations in many industries. In turn, the legal function became tremendously important as companies adapted to these new regulations and made changes to ensure compliance. To keep
up with the demand, law firms raised their billing rates and companies built larger legal teams. That increase in workload was coupled with an increasing recognition by senior management that the legal function is instrumental in helping a company achieve its business goals by enhancing the business overall and helping to develop financial and risk management strategies for the long term. Moreover, the sense that in-house lawyers who worked side by side with their internal clients were best suited to know their risk tolerance also spurred more in-house growth in the post-recession years. In fact, many law departments became business enablers by getting closer to businesses, shedding the damning “cost center” label in the process.

In 2017, that wave of in-house hiring settled, particularly in the first half of the year when there wasn’t as much rapid growth in law department headcounts. Here’s why:

- The Trump administration created regulatory uncertainty, which impacted businesses and legal hiring. Caught in this limbo, companies didn’t know which skill sets to prioritize when hiring, which meant they held off on major hiring decisions.
- Moreover, political and economic uncertainty left hiring managers unclear on the immediate future outlook of their companies. Over the next year, managers will need to consider whether policy decisions will create growth in their industries or send them into a sudden downturn.
- At the same time, in some pockets in-house hiring reached a psychological tipping point. Senior management knew that internal legal teams were not meant to function as full-service law firms and general counsel were using a variety of means to perform legal functions in the most cost-effective, efficient manner possible—including giving work to the in-house legal team, outside counsel, alternative legal service providers and contract workers. This division of labor eased the need for some legal teams to continue to grow at sharp rates. However, there are still many law departments finding the right balance between spending their budget on internal versus external counsel and working to implement the efficiency-driven approach many organizations have explored. Companies that are embracing change, deploying new strategies and tactics and leaning into innovation and optimization are doing best.

“ In 2018, candidates will continue to have leverage when considering a move in-house. As a result, employers will need to differentiate what they offer compared to others to remain competitive for top talent. ”

RECRUITMENT CHALLENGES

For those legal departments that do have open positions, a shrinking pool of interested candidates has made filling those jobs more difficult. The gap in compensation between firms and law departments has continued to increase, and was exacerbated by the wave of law firm associate salary increases in late 2016. Furthermore, according to Major, Lindsey & Africa’s recent In-House Compensation Report, non-GC in-house counsel saw compensation decrease slightly, with average base salaries dropping from $210,000 in 2015 to $208,000 in 2016. Similarly, the average bonus for non-general counsel decreased from $71,000 in 2015 to $68,000
in 2016. At the same time, law firms began to invest more time and resources into retaining and training their attorneys, which engendered more loyalty to firms and resulted in fewer associates moving in-house. According to Major, Lindsey & Africa’s 2017 associate study, only 19% of law firm associates see themselves moving to in-house positions within 10 years.

In 2018, candidates will continue to have leverage when considering a move in-house. As a result, employers will need to differentiate what they offer compared to others to remain competitive for top talent. Company and department branding, as well as the value provided to employees, will have greater importance as competition continues to tighten.

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“Today’s GCs often find themselves with a seat at the executive table, increasingly responsible for enhancing the business and helping to manage SEC and governance issues alongside regulatory and litigation risk. As a result of these increased responsibilities, GCs are in a unique position to make a real contribution to the direction of the company.”

GENERAL COUNSEL’S GROWING INFLUENCE

General counsel have expanded their influence well beyond the legal department and are now more deeply embedded as vital members of the C-suite than they ever were in the past. Their scope of responsibilities has increased dramatically to cover a wide range of business activities, including developing and executing business strategy. Today’s GCs often find themselves with a seat at the executive table, increasingly responsible for enhancing the business and helping to manage SEC and governance issues alongside regulatory and litigation risk. As a result of these increased responsibilities, GCs are in a unique position to make a real contribution to the direction of the company. They are also considered to be potential successors to CEOs. We expect to see more GCs rise to that level in the years to come.

These new responsibilities bring far more complexity to the traditional role of the GC. Today’s GCs are under increasing pressure to keep costs as low as possible and demonstrate added value, all while managing a complex law department budget like a profit and loss statement. As a result, many legal departments are hiring legal
operations professionals to oversee these matters, freeing up GCs to focus on providing the high-level legal and business advice that the C-suite now demands.

The emergence of legal operations professionals is a natural evolution of the push to provide legal services more effectively and with better financial discipline. Faced with pressure to do more with less, the legal operations team will continue to draw from a mix of cost-effective providers, alternative staffing models and evolving technologies.

LEGAL DEPARTMENTS AT A CROSSROADS

Like law firms, in-house legal departments find themselves at a crossroads. The factors that led to their growth have largely subsided and new forces are reshaping team makeup and responsibilities. Over the next year, new technologies will continue to emerge and exacerbate the shifts. GCs are at the forefront of guiding departments through these changes while also assisting their CEOs and C-suites through a business and economic climate full of uncertainty.

ALTERNATIVE LEGAL SERVICES

While the legal industry has been historically resistant to change, technological advancements have the potential to reshape the way business is conducted. As law firms and in-house teams slowly adapt to these changing tides, the options for alternative legal services have grown exponentially, providing an abundance of cost-effective solutions to the efficiency obstacles that firms and in-house teams alike face. However, as new technology continues to emerge, both in-house counsel and law firms will need to figure out how to adapt these new resources effectively.

TECHNOLOGY

One way legal leaders are increasing efficiencies, enhancing their service offerings and optimizing lawyers is with the help of deep learning technologies, including artificial intelligence (AI). In 2017, firms and legal teams looked to these technologies to improve business management and service delivery, and enhance and expand capabilities. Since its emergence, AI has proved critical in legal research. Creating and automating certain legal functions can help teams better understand and classify data, determine trends, manage workflow, conduct due diligence and document review, and implement other prevention tools and processes. This frees up lawyers to handle legal analysis more efficiently and tackle more in-depth, complex matters. While ominous predictions hint at AI ultimately replacing lawyers, this is far from reality. Instead, AI combined with personnel will make way for a supercharged lawyer.

“While ominous predictions hint at AI ultimately replacing lawyers, this is far from reality. Instead, AI combined with personnel will make way for a supercharged lawyer.”
ANALYTICS

Data analytics enables firms and legal departments to more easily examine large amounts of information to find patterns and correlations. Instead of having junior lawyers sift through vast amounts of data, data analytics streamlines the process, helping lawyers make better decisions and freeing up their time for other legal work.

In 2018, the legal industry as a whole can benefit from leveraging legal analytics to harness their data and put it to good use. Data can support a number of legal functions and entities, including:

- **Legal management** – provides a window into where the department and firm can increase profitability and trim costs.

- **In-house legal departments** – measures the risk level of certain business decisions; conducts cost analysis to receive the best value for legal providers.

- **Law firms** – predicts case outcomes and offers clients real-time reporting; sharpens their advantages in an increasingly competitive and cost-conscious marketplace.

We will see more firms using analytics to predict trends and measure practice development by applying advanced analytical tools to their own billing and financial information. We’ll also see more companies use analytics to build predictive models that spot potential business risk, especially with respect to litigation trends. As law firms become more dependent on these tools, lawyers will need to be trained to succeed in a data-driven world.

HYBRID STAFFING MODELS

In addition to boosting the use of technology and analytics, legal departments will continue to introduce more efficiencies by relying on hybrid staffing models. These new staffing models disaggregate legal work and often rely on contract lawyers—who come with much lower billable rates—to handle the work that was previously assigned to associates at law firms. Law firms, fighting to stand out in an ever-competitive field, are also shifting course, considering more flexible engagement structures and even offering fixed or contingent fees.

“The strategic use of alternative legal services will lower costs, improve quality and refine how legal departments utilize their own lawyers and their outside counsel.”

As GCs grow more comfortable working with professionals in operations, project management and process management, we will see even greater shifts in legal services delivery models. The strategic use of alternative legal services will lower costs, improve quality and refine how legal departments utilize their own lawyers and their outside counsel. Each year, more major firms and corporations adopt technology to amplify their capabilities and increase efficiencies. As the programs and software evolve, and the technology grows more sophisticated, law firms and legal teams will further optimize their profitability while driving down their costs.
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