

## MIDYEAR UPDATE

### WHAT'S HOT AND WHAT'S NOT IN THE LEGAL PROFESSION

Like all our previous reports, this update is not based just on law firm surveys but also on information we are continually gathering from legal departments, other providers of legal services, the legal and business press and data compiled by various resources. We are not attempting to report on every development, many of which are obvious and widely recognized, but only on those that we believe are having, or will have, an impact on the profession.

#### **PRACTICE AREAS**

##### **Red Hot**

**Cybersecurity.** No longer just in large firms. Mid-size firms are recognizing its critical importance. There are some predictions that clients will administer security audits which some firms will fail.

**Regulatory.** New Federal regulations are being published almost daily. The FDA, FCC, SEC and the FAA lead the parade. However, unlike in much of the rest of the profession, there is an under-supply of experienced lawyers in this area.

**Government Relations.** As TMG's Steve Nelson reported earlier this year, door-opening relationships are no longer enough. Effective lobbyists must be equipped with facts, data and technical expertise to convince members of Congress what's best for the country and their constituents.

##### **Hot**

**Immigration.** Will be Red Hot by the end of the summer as politics continue to mix with the legal issues, while those flames are also fanning . . .

**Labor & Employment** as we reported last December.

**Elder Law.** Also as we reported at year-end, but still not widely recognized.

**Intellectual Property.** While many of the large firms have been recruiting laterals from IP firms, most of the surviving IP firms have continued to do well due to patent and continued trademark litigation.

**Real Estate & Construction.** Commercial has become hot in the suburban areas outside some major cities, some of it due to corporate relocations. Residential is still a mixed picture but is heating up outside some of these cities because millennials are starting to move out of the city to be closer to where they work.

**White Collar Crime.** As we reported last December.

##### **Getting Hot**

**Insurance Defense.** Insurers increasing using law firms to handle major claims by business insureds.

##### **Mixed Reading**

**Commercial Litigation.** "Bet-the-company cases" continue to be Hot but the rest of litigation continues to be mixed. For the reasons we discussed last December we do not foresee any major change.

**Energy.** Ranges from Hot to Cool regardless of the geographic area. One reason is uncertainty about oil prices,

**Corporate.** Ranges from Hot to Cool depending on the client mix.

**Environmental.** The Climate Change Law may affect future efforts to regulate greenhouse gas emissions.

## INDUSTRY GROUPS

### Hot

**Technology.** Not just in law firms but all providers of legal services as well as, in many cases, their clients.

**Health Care** including, as we reported last December, at least 15 practice areas such as finance, regulatory, labor & employment.

**Financial Services.** Will get Red Hot next year, regardless of who is the next President.

### **Manufacturing & Distribution**

#### **Aviation/Airlines**

**Transportation** other than airlines

**3D Printing.** Still not widespread but continues to be hot in firms such as Benesch which has formed a multi-disciplinary group comprised of members of its Innovations, Information Technology and IP Group.

## MARKETING & BUSINESS DEVELOPMENT

**Social Media.** Continues to be hot. Also see “Other Trends & Issues”.

**Content Marketing,** which is what many law firms have been doing for years – writing or speaking about the law and sharing its impact on clients. As we reported last December, it continues to be hot as syndicators like LinkedIn and JDSupra push content to other sites and services.

**Videos.** Really another form of Content Marketing, generally included in a firm’s web site. If done well, they can be very effective, as Steve Taylor discussed in the March issue of *Of Counsel*.

**AILFLN (the Association of International Law Firm Networks)** is a new association that “represents the common interests of global and regional law firm networks.”

**“Best Lawyers”, “Super Lawyers” etc. lists.** They continue to proliferate. We discussed them in our December report and we agree with Ross Fishman in his June 6 post on Attorney at Work: “Stop squandering precious marketing dollars on them.”

**“Affordable Lawyers” lists.** As with the above, these are also ads, mostly placed by personal injury and divorce lawyers.

## OTHER TRENDS & ISSUES

**Demand for legal services** has failed to return to pre-recession levels in over 60% of U.S. law firms according to Altman Weil’s recent Law Firms in Transition Survey. This has resulted in a surplus of lawyers and reduced profitability in many firms other than the largest. Furthermore 62% of the firm leaders surveyed believe this will be a permanent trend. We agree – but we also believe the total amount of legal services performed by all providers – law firms, non-legal service providers legal departments – will actually increase.

**Billing rates.** Despite the softness in demand, billing rates at some of the largest firms continue to increase although the actual billings reflect discounts which are also increasing.

**Clients have become competitors.** The irony of the whole situation is that, because many legal departments are now doing work that used to be handled by their law firms, many clients have really become competitors to the law firms seeking their business.

**Associate Salaries.** Last week Cravath, immediately followed by Milbank and Paul Weiss, raised associate salaries for the first time in nearly a decade. Expect more of the largest firms to follow suit before long but, due to the overall lackluster performance of the rest of the legal profession, don’t look for this to be the start of a trend.

**Municipalities are hiring outside attorneys to handle civil-rights investigations.** Chicago, New Orleans and Baltimore are a few of the cities that felt their staff attorneys did not have the expertise or time to deal with certain matters, particularly DOJ probes and other complex civil rights investigations.

**Social Media.** *My Case* blog has just reported cases and statistics where it has been used as evidence in court.

**Online degree program.** Syracuse University College of Law is drawing up plans to launch an online degree program. If granted ABA and state regulators approval, it would enroll students as early as January, 2018 and would be the second law school to get ABA approval for this, the other being Mitchell Hamline School of Law in Minnesota.

**Mergers continue.** While no definite figures are available as of this writing, mergers continue to be hot. Most of these are really acquisitions which are a major part of the growth strategy of the acquiring firm and, in many cases, a survival strategy for the acquired firm.

**Origination Credit.** Riley Safer Holmes Cancila, a new 45-lawyer firm in Chicago, two of whose partners were in management positions at Hardin, is eliminating origination credit and the requirement that associates bill 2,000 hours a year. Will this be the start of a trend, at least in smaller and mid-size firms? Only time will tell.

**No seven dwarfs but now seven giants.** Despite the reduced demand for legal services, seven of the largest international firms have continued to grow, either through traditional mergers or formation of a Swiss verein, a structure we reported on in prior *Communiques*.

**Commercial litigation funding.** Despite opposition within the profession, it continues to increase. Originally it was only a means to enable firms to carry large cases. Now major investment companies and other sources are providing capital for other purposes including launching boutique start-ups. Opponents say this violates the ban on outside investors in law firms but the funders say it isn't purchasing equity but is an alternative type of financing which is eventually paid back.

**Lateral hiring.** Continues in many firms even though the national retention rate continues to be only 50%.

**Non-legal subsidiaries.** They were extremely hot for a while but then seemed to die out. Now, as firms look for ways to increase revenues and profits, they seem to be returning.

**The accountants are coming closer.** We reported last December that the Big Four accounting firms have been acquiring law firms in the countries that have authorized multidisciplinary practices – Britain, Australia and Mexico. Now Deloitte announced in April that it had purchased Conduit Law, a Canadian firm that provides outsourced lawyers. However, Deloitte also stated that it “had no plans to enter into the legal market or to compete with law firms here in the U.S.”

**Alternate Fee Arrangements.** They continue but one of the challenges to further increasing their use even more is how the client defines “Value”.

**Employment of law school grads.** The good news is that the percentage of 2015 graduates landing jobs increased from 2014. But the bad news is that there was a decline in the total number of jobs. The reason is that the total number of graduates declined 8.7% in 2015.

**Emotional Fitness Training.** After testing the program in its Chicago office, Kirkland & Ellis is expanding its Life XT training, a mix of meditation, webinars and executive-level coaching, to all its U.S. offices. Last December we reported that at least two dozen law schools were offering for-credit mindfulness courses.

Perhaps the current state of the legal profession could be well-described by Thomas Paine: “These are the times that try men’s souls.” And women’s.

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