



**MPF FEATURED WHITE PAPER**

**HAPPY DAYS ARE HERE AGAIN**  
**2019 SURVEY OF THE LEGAL MARKETPLACE**

*by*

***Smock Law Firm Consultants***

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# SMOCK

LAW FIRM CONSULTANTS

## HAPPY DAYS ARE HERE AGAIN

### The Results of Smock Law Firm Consultants' Early 2019 Survey of the Legal Marketplace

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This document presents the results of Smock Law Firm Consultants' (SLFC) annual review of the national legal marketplace. It is based on interviews of either the Managing Partner/CEO and/or the Executive Director/COO, or both together, in 30 law firms – midsize, large midsize, and larger. We have also based our comments on John's and Peter's continuing management consulting assignments across that national legal marketplace.

The sections of this monograph include a summary of findings and recommendations, the methodology used, 2018 results and the reasons for those results, 2019 expectations, how competitors did, continuing areas of management attention and investment, longer-term issues and concerns facing law firm management and, finally, SLFC's brief comments.

#### SUMMARY

The schematic following this page is a summary of the findings presented in this monograph. It responds to our belief in President/General Eisenhower's long-standing directive to his staff (well before computers and emails), that if you cannot boil your message down to one page, it probably does not need to be known. In our day-to-day consulting practice with our law firm clients, we rely on such a one-page summary to provide focus to the results of virtually all of our assignments.

#### METHODOLOGY

We interviewed (as opposed to a detailed statistical survey) key managers in 30 law firms – either the chief attorney leader/manager (Firm Chairman, Managing Partner, CEO) or the chief non-attorney manager (Executive Director, COO), or both. The interviews were short and to the point – all were less than 30 minutes. We asked about 2018 results, 2019 expectations, how their competitors did, areas of management attention and investment, and longer-term issues. And, we promised the interviewees confidentiality – no interviewee identification or attribution of comments.

#### 2018 RESULTS

As certainly could be expected from prior years' legal marketplace successes and the inherent strength of the current economy, **most law firms did very, very well in 2018. Easily 90% of the people we talked to categorized those results as either very, very good or outstanding!**

- Revenue was up, expenses were under control and in the majority of cases, profits per equity partner/shareholder exceeded or greatly exceeded the (percentage) growth in revenue. In most cases, that partner/shareholder income increased by greater than 5% (with many in the high single digits and low double digits) and many of these outstanding increases in income came on the heels of significant growth in 2017 (over 2016). Simply put – law firm partners are making a lot more money.
- While virtually all firms we spoke to did well, we heard considerably more “2018 was a record year for our firm” than we ordinarily hear. And, many of those firms who did not label it a record year called it the second best year they had ever had.

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THE RESULTS OF SMOCK LAW FIRM CONSULTANTS’ EARLY 2019 SURVEY OF THE LEGAL MARKETPLACE**

**How Did Your Firm Do in 2018?**

- Most law firms did very, very well in 2018 – easily 90% of the firms we talked to were very pleased
- Generally, profit increases per equity partner/shareholder exceeded revenue increases
- Many mentions of *“record year for our firm”*
- While law firm managements do set budgets to exceed them – the increases were still dramatic
- Very few negatives beyond cash slow in coming in for some

**What Worked in 2018?**

- Increases in hours, revenue, rates, and good expense control
- The very positive national economy - *“hard not to make money, when the economy is on fire”*
- Implemented solid management strategies – sharing work across offices, expansion of key practices, favorable competitive rates, better use of legal project management, AFAs working better, and better billings/collections
- Other areas of improvement – better client contact, better expense control, payoff from technology investments, finally dealing with underperforming partners, improved industry groups, and, importantly, improved partner and firm marketing effectiveness, improved lateral performance, and a better focus on firm culture

**What Did Not Work Well in 2018?**

- Almost universal response – *“we have not grown in the last few years”* - in fact, some firms admitted they have cut back a bit in size, but still dramatically improved profitability
- Lack of success in executing a combination – the perception that the hit rate is quite low (and it is)
- And, in many firms, litigation has not come back

**How Did the Competition Do?**

- Not a lot of responses – most firms rightfully focused on their own performance
- General belief – most firms did well in 2018 and will continue to do so
- *“We probably did better than most, but not as well as some others”*
- The mega firms seem to always do well
- Smaller midsize firms appear to be most at risk – common concern, not getting the work they used to and, over the longer term, at risk of losing top clients and people

**What Are Your Expectations for 2019?**

- Build on very good 2018
- *“2019 will be good, as long as the economy holds up”*
- Focus on strategic growth
- Expect to do one or more mergers – so we will grow
- Also, expect litigation to come back a good bit
- But, one smaller firm felt that getting the good work they used to will probably not come back in in 2019

**Areas of Management Attention and Investment**

- Improving underperforming partner productivity
- Take advantage of the good times to strengthen for the future
- Better and more recognizable industry expertise
- Improved client relationships
- Improved technology – increased security, and support of reengineering efforts
- Enhanced marketing effectiveness through improved data management, marketing training, better partner involvement
- Get all offices to critical mass
- *“It’s the economy stupid”*
- More effective legal project management using the most effective tools
- Ensuring understanding of and adherence to our culture
- Focus on process improvement – both how we provide services to clients and the way we run our business
- Strategic growth – we have to grow to survive
- Get creative and productive on diversity and inclusion
- Differentiating our firm from our competitors

**Longer Term Issues and Concerns**

- To remain competitive, firms will have to provide increasing (and differentiating) value to clients
- Losing (to retirement) those partners who brought in and still lead most of the work we do for our clients
- Changing competitors – yes, other law firm but also CPA firms (primarily the Big 4) and consulting firms with skill sets valuable to the provision of legal services
- Effective and affordable use of technology in providing services to clients and managing our business
- Resolving millennials expectations on work and rewards and compensation – *“you cannot earn more \$ for less work”*
- Increased and more sophisticated client expectations
- All of the aspects of matter and case staffing – skill sets needed, working remotely, effective project management, etc.
- Larger roles in effective client service will be played by non-lawyers in the future
- Rates cannot continue to go up 5% per year – something has to give

**SLFC Conclusions and Observations**

- Evident that law firms are managing themselves much, much better than in the past – *“you cannot just practice law well, you have to manage well the practice of law”*
- Effective law firm management a key determinant of short and longer term performance – rates cannot go up 5% into perpetuity, but partner income can
- Two of SLFC’s historical conclusions – the need for dealing with historical underperforming partners and the value of integrating the Firm’s culture into its management should produce significant results, financial and otherwise
- Growth, the *“capitalistic imperative”* needs to get more on the front burner – just keeping all the people you currently have busy is not strategic management – as we said law year and in prior years, every firm needs to execute a growth strategy
- We still believe that if a law firm is well-managed, composed of excellent attorneys who are fairly rewarded, and focused on the right things, it will do better than its competition (simplistic, but still true)

- Law firm managers expect to exceed budgets (it is a time tested trick of the trade). We have certainly learned over the years we have served law firms that good CEOs and COOs put together, generally (and there are some brave outliers), relatively easy to achieve budgets. A couple of direct quotes underscore this *"it is better to be lucky than good, but we were both"* and *"we have exceeded our budget now for 25 years in a row."*

While we heard very few negative comments, there were some. A couple of smaller midsize firms did not do as well as they thought they would do, primarily because cash was slow coming in. Assuming that clients do pay, that should be made up for in 2019. Some of the firms commented that while they did well in 2018, it was not as strong a year as 2017 was.

### WHAT WORKED IN 2018?

There were a wide range of things that the interviewees thought positively impacted 2018 results.

- Some were expected - hours were up (and headcount really was not), better leverage (associates were both busier and more productive), litigation stopped shrinking (although not universally), and some large contingency cases settled.
- The very positive economy influenced virtually all interviewees - *"let's face it, it is very hard not to make very, very good money when the economy is on fire and our clients need good solid legal work; virtually every industry is doing well and legal work grows significantly in an upmarket; and clients are growing their businesses and, thus, we are growing ours."*
- Clearly firms have implemented strategies that have resulted in increased work and an even greater increase in profitability - working better includes sharing work across offices, getting solid productivity out of investments in laterals (a real trend over the last couple of years), expansion of key practices (particularly industry focused groups), better responsiveness to client pressure on alternative fee arrangements, a real focus on and implementation of legal project management (*"that stuff really works"*), increased specialization within the client service itself (a good example - document review), a significant increase in the use of alternative fee arrangements that are becoming more financially favorable to outside counsel, and continually improving the *"blocking and tackling"* of legal billing and collections.
- Probably emphasized more in 2018 than in prior years was the implementation of substantive improvements in internal activities that equated to direct results in profitability. Included are better client contact (including follow-up and client service planning); better expense control, which focused revenue increases to the bottom line; getting the expected financial benefit from investments in technology; across-the-board productivity increases (work, realization, collection); significant improvement in the performance of some of the less productive partners, finally moving underperforming partners out of their blocking positions; and turning more and more responsibility to younger partners (*"that is clearly the one thing we should have done earlier than we did"*); this *"underperforming partner housecleaning led to dramatic revenue income increases"*; more substantive attention to and increases in industry groups creating better alignment and clearly more work; and dramatic and positive improvement in partners' and the firm's overall marketing performance (*"we are actually bringing in work through our marketing efforts and people are now believing that it works"*).
- Considerably more so than in prior years, the firms interviewed thought that the laterals that had joined the firm (particularly at the partner/shareholder level) had performed well and, generally, exceeded expectations.
- A few firms mentioned something we did not hear in prior years - specifically focusing on the firm's culture (i.e. - increasing the alignment of performance and rewards with firm culture, including documenting that culture, and ensuring that everyone in the firm understands and acts in accordance with it).

## WHAT DID NOT WORK AS WELL IN 2018?

Although obviously the positives we heard in the interviews far outweighed the negatives, we also recognize that there are things that can always be done better. So, we asked about those.

- The almost universal response to that question of what did not work was the fact that most firms have just not grown. Yes, profitability and revenue have increased (and SLFC clearly sees those two things as very distinct positives), but professional headcount has not increased. This lack of growth has been experienced across the full size range of the firms we interviewed – smaller law firms complained about it and so did larger ones.
- And, a number of firms mentioned that they had not been successful in executing strategic combinations with other law firms (as we will discuss later, the only strategy that can truly achieve substantive growth). In listening to their comments, it is our perception that many of these firms have not recognized how much time and effort it takes to do an excellent merger (i.e. - do it right) and, simply, are not willing to make that investment.
- And while a number of firms did report increases in their litigation practices' performance, others did not. Litigation remains generally soft with some exceptions.

There were a number of other negatives stated in the interviews including the fact that while some firms did clean house in their underperforming partner ranks, others did not and – thus – see those partners as obstacles to profitability and other improvements; a lack of attention to those little things that really have a significant impact on performance and profitability (like living the culture); and diversity and inclusion do remain an issue (*“once again we spent a lot of time talking about it, but produced no significant results”*).

We also heard different versions of a continuing complaint/concern that we have heard in prior years (in fact throughout our whole law firm management consulting careers) – *“we take two steps forward and then a step back – why can we not get everyone on the same page?”* We recognize that and if we had a magic solution to get that to happen, then we would be flying a private jet to see our clients rather than sitting in coach on commercial airplanes.

## HOW DID THE COMPETITION DO?

Every year in the survey we question the firms we talk to as to how they think their competitors did? We get some interesting responses, but it is probably the question that gives us the least meaty responses. Most firms seem more concerned with how they did relative to what they planned to do – and, we believe that is the appropriate focus. You cannot control what your competitors do.

Some of the points made by the firms we talked to follow.

- Most firms generally believe that their primary competitors generally did well – *“we probably did better than most, but not as well as some others.”*
- There is also a belief that the larger firms (the AmLaw 100 and 200 firms) did particularly well over the last few years since, to a great degree, the Great Recession scared them into positive action earlier. We believe that is true on average and that the statistical results of all of the AmLaw 100 and 200 groups when released will prove that out.
- *“The mega firms always do well and we have successfully avoided thinking about it and focus on serving our clients and getting more work from them.”*
- In terms of the interviewees response to our question, the firms that appear most at risk are the smaller midsize firms. Both they and their competitors felt that they were at risk relative to retaining clients, hiring good people, and, importantly, retaining their best people. There is a general belief that the smaller midsize firms need to seriously consider strategic mergers, before they get to a point (e.g. – poor financial results, escalating defections, etc.) where they cannot do a solid strategic merger.

## AREAS OF MANAGEMENT ATTENTION AND INVESTMENT

For both 2018 and 2019, we asked the firms for their priority areas of management attention and investment. These follow.

- Continuing the focus on improving the performance of underperforming partners (and, in fact, improving the performance of all partners) – *“if we continue to make progress as we have and the opportunities exist as we know they do, there is a gold mine of improvement here”*
- Recognizing that the legal profession is doing relatively well even in this much better economy – so now is the time to identify issues, make needed changes, and ensure that we have a future in a dramatically changing environment
- Better and more recognizable industry expertise – becoming known by attorneys and non-attorneys alike as experts in providing legal services to their industries
- Improving our client relationships through day-to-day operations, follow-up, focus, and improved communications
- Technology across a number of fronts – understanding its best and affordable use for serving clients, meeting the management needs of the firm, ensuring cyber security (*“this just scares us to death”*), and assisting in reengineering processes in serving clients and managing our focus on growth
- Increasing marketing effectiveness through improved data management, marketing training, understanding and response to client needs, industry foci, and increased expectations of partner effectiveness (*“yes, it is part of a partner’s responsibility to productively market”*)
- Recognizing that developing and retaining the human talent within the firm is the greatest determinant of a firm’s future success – dealing with recruiting, training, transition and succession, compensation, and a whole variety of issues unique to the newer generations of attorneys and other personnel
- Acting on the fact that we know our long-term performance is based on ensuring that all of our offices and our practices are at critical mass, can stand on their own, and produce a profit for the firm
- Remaining aware and acting on the fact that the near-term economy will remain probably the most significant impact on our success or lack thereof
- Getting better and better at legal project management and other tools to counter rate pressures and competitive moves, maximize/optimize staffing; and ensure that we are maximizing profitability, while providing a valuable service to our clients
- Emphasizing and internally publishing our specific culture to ensure that all understand and adhere to it (*“we believe it is a competitive advantage, but it will not be if we do not understand it and behave according to it”*)
- Focus on process improvement and understand that process improvement (both in the ways we provide services to our clients and the ways we run our own business) gives us the opportunity to remain competitive, differentiate ourselves from other firms providing similar services, and literally stay a step ahead
- Focus on strategic growth, we need it to remain competitive – but recognize that many of our partners (and the staff too) do not see the need to grow or the inherent risk of not growing

- Figure out a way to handle diversity and inclusion that is not nearly a repetition of what other firms say and do (everyone has a diversity policy, but basically they all say the exact same things) – figure out ways to distinguish the firm in this area, its diversity/inclusion strategies and the results it achieves
- Differentiating the firm – ways that we can be known positively in ways that our competitors are not – *“how can we set the firm apart relative to its image, brand, and overall success?”*

### **EXPECTATIONS FOR 2019**

We asked the interviewees what their expectations were for 2019. As can be expected, the responses were considerably less definitive than what had occurred in 2018. All certainly agree with the general optimism/opinion that the professional and financial success of good business law firms will continue. Most firms expect a positive year (*“very good results in 2019 and as long as the economy holds up”*). This overall positive expectation includes the following individual points.

- We should be able to build on these very good 2018 results and expected increases in partner effectiveness, economically positive alternative fee arrangements, client support and, as long as private equity stays hot, we will be very, very busy and very successful financially.
- *“The legal business follows the overall market and that overall market looks good – so 2019 looks good.”*
- *“We are well on our way to a major merger and, as a result, will grow dramatically.”*
- We expect an increased number of baby boomer retirements and expect that the younger partners who are doing very well will more than pick up the slack.
- A number of firms mentioned that they expect an uptick in litigation in 2019, although they did not provide the reasons – thus, the chance for wishful thinking.
- One smaller firm mentioned that while they are expecting another good year in 2019, the trend of not getting some of the really good work that they used to get will continue.

### **LONGER TERM ISSUES AND CONCERNS**

Finally, we asked the participating firm leaders what they saw as the most critical longer-term issues that they will have to address and resolve over the next 5 to 10 years. As could be expected, there were a wide range of responses and we have combined them into the following points and if we did not hear it more than once, that point was not included.

- Firms will have to remain competitive to survive and there is only one way to do that – figure out ways to provide clients increasing value (that they recognize as valuable). *“It is not about us, it is about them.”*
- Over the next few years, we will be losing to retirement many (actually, most) of the partners who brought in the very good work that everyone here performs – we clearly must hold on to or replace that work.
- The nature of traditional law firms’ competition is changing. There is the belief (which SLFC shares) that the Big Four CPA firms have and are gearing up to compete in the legal marketplace or in the peripheral services that lawyers provide. There are other independent professional service firms that pick elements of legal services (like document management or automated discovery) that play to their technological or other unique skills and where they might provide greater value than a law firm.

- Clearly technology is a longer-term issue and was mentioned in virtually every interview. From ensuring that the firm is implementing the right systems to remain competitive in providing high-quality client services and to the looming importance of artificial intelligence (AI). resources and technology, under the assumption that the results that technology provides, will be critical to the firm's (regardless of size) success.
- There is a unique disconnect with the millennials - many younger attorneys do not want to work as hard as their older colleagues, but they do want to make as much money or, actually, more. As one managing partner said, "*you cannot make more for less.*" And, it is considerably more than how hard the generations work, it is also how they work.
- Client expectations will continue to be more sophisticated and more demanding. Organizations like CLOC (Corporate Legal Operations Consortium) will continue to grow in importance and set standards for the quality and effectiveness of outside legal services.
- There will certainly be a larger role in client service for non-lawyers (who actually come in contact with the client) - "*our best client servers will not necessarily be attorneys*"
- The billable hour is dying a slow but steady death. Clients have learned that legal project management enables tasks to be efficiently estimated, managed, and billed for. For instance, completion of the task will probably be the basis for the invoice not the billable hour.
- Diversity and inclusion will not go away. The concept is part and parcel of the practice of law and is as universally politically correct as you can get. The issue is that it will go much further in the next few years than merely setting policies and trying to implement them. Actual performance and, yes, results will be expected.
- Rates cannot keep going up at 5% per year. Clients' prices for their goods and services are (and have been for years) going up at a much slower pace (as has inflation) - alternative fee arrangements will continue to grow and larger high rate firms will price themselves out of a good bit of the work they do.
- Staffing becomes an enormous issue. Attorneys and employees will continue to work remotely and office space will be reduced. How remote attorneys communicate and participate in high-quality client service is an issue that has yet to be solved.

### SMOCK LAW FIRM CONSULTANTS' CONCLUSIONS AND OBSERVATIONS

While the above topics and condensed comments of our interviewees certainly speak for themselves, we did come up with some takeaways.

- It is evident to the two of us that, simply, law firms are managing themselves much, much better than we have seen in the 40+ years we have served law firms. In fact, back then law firms (if they did good work and billed and collected on time) could be very successful even if the managers were less than fully competent or merely ineffective (and some were both). Now, excellent management and leadership are essential to ensuring that firms succeed. **You cannot just practice law well, you have to manage well the practice of law.** Yes, firms are doing well, but they are doing well because of good leadership, management, and administration.
- Performance at these firms that are managed well is moving these firms ahead of their competitors and, in many cases, corporate America. The increase in compensation income among well-managed law firm partners/shareholders is quite significant. While it is true you cannot raise rates 5% into perpetuity, you can certainly manage profitability increases at that level into perpetuity.



- Two areas that SLFC has emphasized in the past few years – moving aggressively to resolve the chronic underperforming partner issue and formalizing, documenting, and managing according to an agreed-upon culture – were really given solid kudos this year in the interviews. The true financial impact of finally dealing with chronically underperforming partner issues has been both misunderstood and way, way understated. That is changing.
- We recognize true growth is an issue (actually, we call it the “*capitalistic imperative*”) and have preached ad infinitum on this topic over and over again. While you can improve the gene pool of the firm by individual lateral acquisitions, it is very difficult (or impossible) to grow merely through laterals. If you look at the firms that have dramatically grown over the past 10 years, it is because of successful mergers and combinations. Thus, mergers will continue if growth remains a primary market objective and firms will probably not change their market position unless they do a merger of some consequence.
- Our final conclusion is that if a law firm is well-managed, composed of excellent attorneys, focused on marketing and financial issues, and is a very good place to work and practice, it will probably do better than its competition and, given a good economy, will continue to thrive. This is why the basics are so important.

As in prior years, we have enjoyed the interview process and, importantly, the process of summarizing information and drawing conclusions. We were particularly grateful for the firms that agreed to be interviewed and provided the darn good information we have worked with. We hope all of firms we interviewed and, for that matter, all of our clients and friends in the legal marketplace have a very successful 2019.

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### About Smock Law Firm Consultants

Smock Law Firm Consultants is a focused strategic management consulting firm serving law firms. We help them address and resolve those key issues that have a major impact on a firm’s near-term success and its long-term direction and focus. We focus on six key areas of practice – (1) **strategic planning** at firm and practice levels; (2) **strategic plan implementation and execution**, in essence, helping clients do what they said they would do; (3) **mergers and combinations assistance**, helping identify, negotiate and implement combinations; (4) **practice/industry team management**, helping the team concept achieve its potential; (5) **law firm economics**, helping our clients improve profitability and deal with longer term financial issues; and (6) **strategic management issue resolution**, assisting in resolving issues of vexing management concern (e.g. – partner compensation).

We believe there are three factors that clearly set us apart.

- The primary success factor for any consulting firm is the results achieved by our clients – in both the near and longer term. Our client references speak directly to those results.
- Our *first string* and, actually, our **only** string (Smock and Giuliani) is, simply, **the most experienced twosome of senior consultants serving the legal profession**.
- We tailor our approach to every consulting assignment to the unique needs and requirements of the client. We are known for our **originality and creativity** in doing that and for our scrupulous avoidance of promoting *law firm management dogma*.

Again, thank you for either participating in our survey, being interviewed, or considering its results.

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