



What is the optimum size for a law firm?

Conventional wisdom says that a firm needs at least 100 lawyers to be taken seriously in the marketplace. But is that really true, and does it apply to all types of firms in all locations? Viewed in five dimensions (capability, clients, reputation, collegiality and profitability), here is an analysis of whether, and to what degree, size matters.



By Ed Wesemann

Lawyers and the legal media frequently talk about the size of law firms. But unlike how most businesses address size (annual revenue), law firms seem to define size as the number of lawyers practicing at a firm. Managing partners who talk about growth typically mean adding enough lawyers to reach “critical mass.” When lawyers are laid off, it’s termed “right-sizing.” So with all this focus on lawyer head count, shouldn’t there be some benchmark as to the optimum size for a law firm?

When a firm starts talking about size in the abstract, it is usually signaling concern about being big enough to compete for the most sophisticated and challenging work while remaining small enough to maintain a strong client focus — large enough to attract the big fish and small enough to not scare away the small fish. At the same time, firms want the prestige of being a large firm while enjoying the culture and collegiality of a smaller firm. And oh yes, this should all occur while maximizing profitability.

This is the result of a natural internal conflict within every law firm. On one hand, firms see growth as a symbol of success — prospering businesses grow, failing businesses shrink. Larger firms seem to have greater credibility and attractiveness to clients and, in the minds of many law firm leaders, there is an assumed correlation between the number of lawyers a firm has and its level of profitability. On the other hand, change creates uncertainty, and lawyers hate risk.

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The fact is that size does matter — at least in lawyers’ perceptions about law firms. There are five generally held “truisms” about the size of firms:

1. Capability: larger law firms are more capable of handling complex sophisticated legal matters than smaller firms.
2. Clients: larger law firms are more attractive to larger clients with more sophisticated legal issues than smaller firms.
3. Reputation: larger law firms have better reputations and name recognition than smaller firms.
4. Collegiality: larger law firms are less collegial than smaller firms.
5. Profitability: larger law firms are more profitable than smaller firms.

Like any generally held opinion, there is an element of truth in each of these statements. The real issue, however, is whether an analysis of these perceived truisms under a number of circumstances can allow the construction of a model that helps determine the optimum size for a law firm.

CAPABILITY

The ability to perform legal work well would appear to be a natural derivative of size. More lawyers means a greater likelihood of having someone with the experience to handle a matter. Beyond that, having more lawyers usually converts into bench strength, which permits firms to handle larger matters. As well, with greater size typically comes the potential for increased expertise through specialization.

Mixed together with capability is the concept of quality. In theory, any lawyer is licensed to handle virtually any matter. Therefore, capability generally

implies the ability to competently provide services — not just being able to avoid malpractice, but actually fulfilling the needs of clients.


Conventional wisdom among law firm managing partners and sophisticated clients is that there seems to be a presumption of quality in firms with more than 100 lawyers. Indeed, the acceptance of 100 lawyers as the “critical mass” point is so widespread that it represents one of the driving influences causing smaller law firms to merge into bigger ones. Managing partners of smaller firms that joined larger entities consistently report that there were always questions about quality and experience, and even requests for references from potential clients, when they had fewer than 100 lawyers. After a merger that created a 100-lawyer or larger firm, however, those issues seemed to disappear from clients’ minds.

Of course, capability is also a function of the complexity of the issue. Any reasonably sized general practice firm is most likely capable of handling routine business transactions or commercial litigation cases. But a major international transaction or billion-dollar lawsuit likely will require specialized experience normally held in larger firms.

Nonetheless, despite the inference of quality that clients take from size, specialization plays an important role in assumptions about capability and quality that may override the size issue. A specialty boutique is deemed to have the capability and level of quality to handle specific matters in its sphere of expertise, but only in that area of expertise. When a boutique attempts to step beyond its particular focus, the firm loses its clients’ presumptions of capability.

A good example of this is patent prosecution. A client seeking a patent might go, with equal confidence, to a 20-lawyer IP boutique or to the 20-lawyer intellectual property department of a 300-lawyer general practice firm. But when there is occasion to litigate that patent, clients tend to favor the larger firm, where they anticipate there will be capability in both IP and litigation.

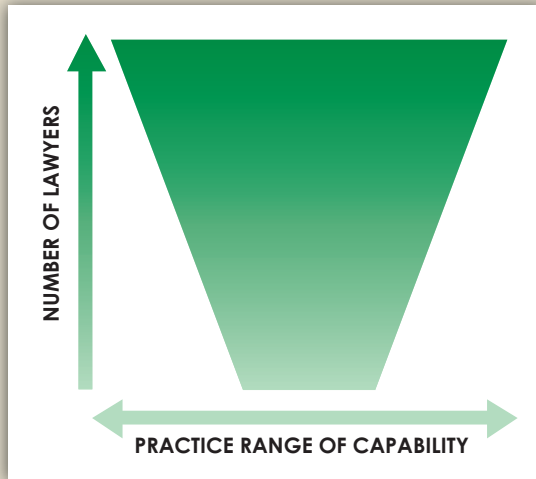
In a series of interviews with law firm managing partners and with clients from a variety of sized businesses (including both owners and general counsel), we asked: “What number of lawyers is necessary to have confidence in a law firm’s capability to perform quality work?” As predicted by conventional wisdom, the consistent response for a law firm was 100 lawyers. But for a specialty area, it ranged from 10 to 20 lawyers, with a few responding with numbers as high as 100.



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Graphic 1:
Does size matter?

Number of lawyers
 and range of
 capability



What we find, therefore, is an ascending hierarchy of capability based on the level of specialization involved. A 100-lawyer general practice firm might make the capability and quality cut for general matters. But for sophisticated issues of specialization, there must also be critical mass in the specialty area.

CLIENTS

Most partners in law firms believe that the largest and most attractive clients (generally viewed as Fortune 500 corporations) prefer very large law firms. Law firms consistently believe that clients want “one-stop shopping” and seek out firms that can fulfill all their legal needs. This view would seemingly favor larger firms. Clients, however, particularly general counsel, are

equally consistent in their response that they want the best firm possible, consistent with issues of value.

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According to American Lawyer Media, last year the Fortune 500 listed 649 law firms as their “go to” firms. Of those, fewer than half counted more than 100 lawyers (although a number of non-U.S. firms were included). However, it is interesting to note some consistency of firm size by practice area. Corporate work (both governance and transactional) seems to go heavily to larger firms, while IP, litigation and employment law seems to be mixed between boutiques

and larger general practice firms. While there seems to be a willingness to give work to smaller firms, they tend to be boutiques. Indeed, there was almost a universal absence of general practice firms with fewer than 100 lawyers on the Fortune 500's "go to" list.

REPUTATION

Law firms tend to use the terms "reputation" and "name recognition" almost interchangeably. But these terms have different meanings: name recognition is about whether you are known, while reputation is what you are known for.


Clearly, name recognition is enhanced by size. Larger firms have more lawyers on the street, meeting and interacting with more people. They also have bigger marketing, public relations and publicity budgets, making it more likely that the firm's name will be seen on advertisements, in articles, or on speaking programs. Indeed, there is virtually a direct relationship between the size of a law firm and its name recognition.

However, this relationship is a function of relative size in a market. A 20-lawyer law firm in a 50,000-population town would be known by everyone. But 500-lawyer firms with national name recognition are frustrated that no one in New York or Washington has heard of their 50-lawyer offices in those cities. Although there are rare exceptions (e.g., Wachtell Lipton), name recognition is based on size in relation to the other firms in the marketplace in which a firm is seeking name recognition.

Arguably, there is a reputational benefit to size. Law firms' reputations are largely built on the collective reputations of individual lawyers within the firm. Therefore, a firm with more lawyers is able to create more opportunities for lawyers to succeed and more positive interactions on which good reputations are built. In fact, size might even help avoid a bad reputation. In a smaller firm, the misdeeds or failure of a single lawyer would affect the whole. In a large firm, the negative impact of a single lawyer is diluted by the combined positive reputations of a large number of other members of the firm.

COLLEGIALITY

The meaning of cultural issues varies among firms, but typically, collegiality refers to the state of affairs in which lawyers within a firm know and like one another. Certainly, to like another individual requires that one knows



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that person, and clearly that is a drawback of size. But experience seems to indicate that the loss of collegiality is not a linear event that directly correlates with size.

Law firm partners provide all sorts of definitions of the point at which a loss of collegiality occurs. For some, it is when you cannot address each of your partners, much less the associates, without the aid of name tags. Some would say it is when you have not met each of your partners' spouses, or when

everyone can't fit around a conference table. Generally, however, there seems to be reasonable consensus that collegiality is lost at a point somewhere around 100 lawyers.

With some frequency, however, we hear from lawyers who laterally leave 80-lawyer firms to join 800-lawyer international firms and claim they had never before experienced the level of collegiality they found at the new firm. It turns out that there is a context to collegiality, one that is borne out of a group that may not be the whole. As law firms grow, attachment to the overall firm is replaced by attachment to an office of the firm, or to a practice group within the

office. This is analogous to people in a large city who feel greater unity within their neighborhood or on their block than people may feel in a small town.

The result is that the loss of collegiality as firms get larger seems to occur in gaps between individuals aligning with subgroups to replace the attachment to the firm as a whole. In short, collegiality is lost as a firm grows, if the individuals can't find some other group within which to form attachments.

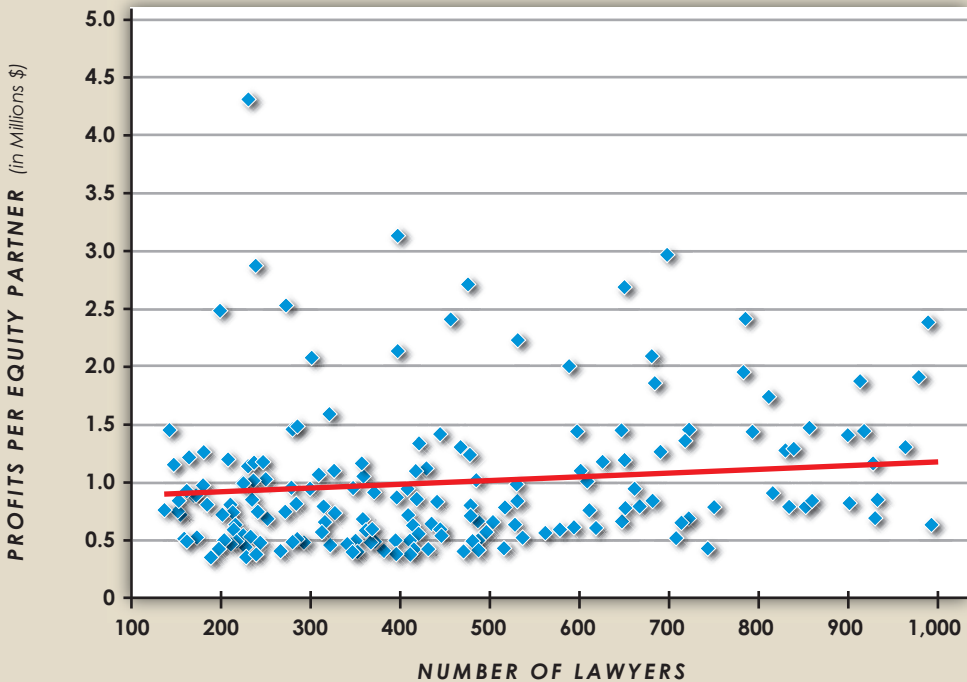
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PROFITABILITY

A driving feature of many law firms' strategies is to increase profitability through growth. While there is no inherent correlation between the size of a firm and its profitability, there appears to be a consistent belief that bigger is more profitable. A comparison of the AmLaw 200's number of lawyers versus profit per partner, however, shows (see the trend line) that there is virtually no correlation between size and profitability. Confirming this is our anecdotal experience that law firms in the range of 50 to 100 lawyers routinely are more profitable than many firms with 300 lawyers.

Interestingly, two issues correlate to profitability on a broad scale, and they both involve location. The first is the geographic location of a firm's headquarters

Graphic 2:
AmLaw 200 Profit vs. Size



or largest office. Big firms in large capital market cities (New York, Chicago, Washington, Los Angeles and San Francisco) are generally more profitable than similar firms in other cities. Other than these cities, regions have little to do with profitability: firms headquartered in the Southeast or Northwest are generally no more or less profitable than firms in the Northeast or Midwest.

The second locational issue is the number of places in which a firm is based. Firms with more than one office are generally less profitable than firms with those of the same size with a single office. This is not much of an issue with larger firms: virtually all firms with more than 200 lawyers have more than one office. But among firms with fewer than 200 lawyers, the difference between multiple and single office firms is startling.

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In fairness, size does provide some economies of scale. Overhead costs, including staff positions, do not increase proportionately with the size of a firm. For example, the average square footage per lawyer in a law office designed for 25 lawyers is typically 800 to 850 square feet. In an office designed for 100 lawyers, it is about 650 to 700 square feet. On the other hand, offices with significantly more than 100 lawyers tend to see an increase in amenity lawyer services that eat into any economies of scale.

WHAT IS THE OPTIMUM SIZE?

So where does all this lead us? The evidence (and admittedly, much of it is subjective and observational) seems to shout that the optimum size is somewhere around 100 lawyers. But it is not a clear-cut decision, and there are some results that feel like conclusions rising to the surface:

For general practice firms performing moderately sophisticated work for mid-sized and smaller clients, about 100 lawyers in a single office is absolutely the best configuration.

1. For general practice firms performing moderately sophisticated work for mid-sized and smaller clients, about 100 lawyers in a single office is absolutely the best configuration. Such firms need to avoid endangering themselves (and their clients) by attempting to be all things to all people. They are far better off creating referral relationships with boutiques for highly specialized practices than to risk doing a mediocre job for their clients or bringing specialists in-house that they can't keep busy.

2. Boutique firms in highly specialized areas seem to fare well in the 10- to 20-lawyer range, provided that they keep themselves specialized. They can, of course, grow to about 100 lawyers, but they need to be careful about adding areas of practice without the 10- to 20-lawyer critical mass. As well, a boutique can have one or two areas of practice; but at the level of three practices, it risks being viewed as a general practice firm with limited capabilities.

3. Firms attempting to offer in-house boutique specialized services need to follow the 10- to 20-lawyer rule for such practices within the firm. This might drive up the optimum size of the firm, since more lawyers may be necessary to refer work to the multiple in-house specialty practices.

4. “Branch offices” are subject to all the same rules as the firm as a whole. That is, an office with a single practice area (such as a Washington office that does FDA work) is fine with 10 to 20 lawyers. But if it is going to be a general practice office, it is effectively a general practice firm whose optimum size is closer to 100.

Total size is probably not an issue beyond the factors listed above. There are, of course, name recognition advantages to having 500 lawyers, but the important feature is more the makeup of the firm (size of offices and specialty practices) than the size of the total firm. The absolute conclusion may not be the identification of an optimum size. Instead, it may be making decisions to avoid the pitfalls of growth. •



Global strategic expertise

Ed Wesemann specializes in assisting law firms with strategic issues involving market dominance, governance, merger & acquisition, and all activities necessary for strategy implementation. He has worked with law firms on six continents and is the author of four books on law firm management.

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