



BY HEATHER SUTTIE

# The Lean Law Reckoning

If you thought the legal industry was competitive before, brace yourself for what happens next



**UNLESS YOU'VE HAD** your head stuck in the sand, it would be hard to ignore that this has been a year of change. And even though 2014 has yet to end, change won't. If hindsight is a teacher, the lesson is that law is getting lean.

Canada's Big Law market shrunk dramatically with the demise of Heenan Blaikie LLP in February. Other firms have been shedding personnel and are likely to continue doing so. For example, McCarthy Tétrault LLP, which housed nearly 800 lawyers in 2005 and used to market itself on a "size matters" platform, has shrunk to around 590 lawyers in 2014. It's not alone. According to a July report in *Legal Week*, the UK's top 20 law firms by revenue saw 533 partners head for the exits in the first four months of this year.

De-equitization — when a firm buys back a partner's ownership stake — is another factor. This is especially prevalent among firms unwilling to compromise on a profits-per-partner (PPP) payout — probably the least business-related measurement of a firm's success ever invented.

The push for firms to get lean is coming from outside forces and factors. These include in-house counsel who are demanding efficiency and transparency from those to whom they send work. Much of the effi-

ciency pertains to the person handling the work, and at what pay level. Discounting — sometimes to the effect of suicide-pricing — has resulted in work bypassing mid-level partners and associates in favour of paralegals. The good news for the client is that they pay a lower rate; the bad news for firms is that lawyers are challenged to make their billable hours.

Another factor are firms themselves. Smaller firms are popping up — having splintered off from larger firms for a variety of reasons, including a desire among some lawyers not to die at their desks while doing work they want. Even Torys LLP has gotten into the small-is-beautiful act by opening an office in Halifax as an on-shore resource to handle work for the firm's clients on a fixed-fee basis.

Furthermore, non-traditional firms are having a huge impact. For years, will kits have been available at stationery stores. Now you can get in-person legal advice through Axess Law, which has a presence in a handful of Walmart stores in Toronto. Cognition increased its stable of on-call lawyers by expanding into Calgary and Atlantic Canada. Not to be outdone, Conduit Law now includes a "client value adjustment" line that enables clients to change their invoice to reflect their opinion on value for services rendered.

Instigating change is a universal challenge. An Australasian Legal Practice Management Association (ALPMA) survey in June found that resistance, no sense of urgency and a lack of partner buy-in were key barriers to change. Among respondents, 80 per cent According to the 2014 *ALPMA/LexisNexis Impact of the Changing Legal Landscape on Australasian Law Firms*, 80

per cent of respondents from 122 firms across Australia and New Zealand said that clients' demanding better value was driving change, but only 18 per cent said they were changing their pricing strategy.

Earlier in the year, Altman Weil's *Law Firms in Transition* survey showed that only 10 per cent of leaders at 803 US firms believe change will come from within. Instead, 34 per cent believe change will be spurred by corporate law departments; 32 per cent chose technology innovation; and 15 per cent think change will be triggered by non-law-firm legal services providers.

This lack of rigour supports trends in a number of countries toward non-lawyer-owned and non-lawyer-managed firms. This concept is gathering momentum in Canada, too, as witnessed by the Canadian Bar Association's report released in August, *Futures: Transforming the Delivery of Legal Services in Canada*.

All the surveys in the legal world won't tell us anything we don't already know, which is that, while major matters will be the domain of Big Law and practice-specific boutique firms will thrive, a new and lean practice of law is evolving.

Lean law will have a non-lawyer management and governance, and possibly non-lawyer ownership. It will feature fewer if any equity partners and, instead, offer lawyers on demand and on contract. Work will be scoped into projects and priced in advance. Deep legal expertise combined with specific industry experience will trump seniority. Loyalty will mean nothing, while brand market differentiation and reputation management will mean everything.

This will be a whole new breed of lawyering — and it will be about time. 📌

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