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GUEST COLUMN

Big law is back in the Goldilocks zone *2022 looking to be another big year for big law*

By Peter Zeughauser

If big law 2021 was, as many firms are reporting, a whopper of a year, 2022 looks to be even better.

In 2008, at the end of the 17-year golden era, pundits declared that clients had pressed a “reset” button. They’d had enough of the run-up in billing rates that had then crashed through the \$1,000 ceiling and the sky-high Am Law 100 average profits per partner of \$1.2 million, not to mention the coddled associates who were earning skyrocketing salaries alongside reduced hours to keep them sticky.

Well, the reset button didn’t stick. Salaries and partner compensation are soaring. Hourly rates and billable hours, too. Lawyers who used to complain about firms in which the partners didn’t know each other are now kicking the office habit. Allowing lawyers to work remotely on Zoom has become a way to attract and keep them sticky.

The times, they are a-changin’. Welcome to year three of the pandemic.

Big law is in the Goldilocks zone again, and California lawyers are better positioned than ever to rock and roll in 2022. Fasten your seat belts as we accelerate to average profits per equity partner of \$3 million, top rates over \$2,000 per hour, and a league of major league firms dominating the state’s top tier with over \$4 billion in revenue.

Big law is entering California 2022 like a charging bull and the coattails will be long for lawyers in firms of all sizes. Publicly, firm leaders wisely are expressing only cautious optimism — no year is without risk for a downturn. But

many top firms prepaid 2022 expenses at the close of last year to tamp down 2021 profits, while they were at the same time pregnant with higher levels of inventory coming into the new year.

That, and the strong consumer economy predicted by America’s banker, JP Morgan Chase CEO Jamie Dimon, just this week, with falling unemployment and rising wages, savings and consumer spending, not to mention infrastructure in need of repair, a climate in urgent need of greening, and plenty of private capital that must be deployed, all bodes well for lawyers.

Let’s take a look at what’s likely to put California lawyers in the money in 2022 and beyond.

Starting with geography, the Bay Area and Los Angeles have long been the ports of call for California’s most successful law firms and invading out-of-towners. L.A. idled when California’s big banks consolidated in San Francisco and the venture capitalists flourished in Silicon Valley. Now the Bay Area is one; the long-heralded convergence of tech and entertainment, evidenced by streaming services eclipsing network TV and Mark Zuckerberg ushering us into the metaverse, and everything gaming, has fused Silicon Beach and the greater L.A. area entertainment industry to NorCal tech.

Pile on top of that the convergence of private equity and venture capital, and the emergence of the unicorn late-stage private companies as spigots of “other people’s money” (OP[iu]M) to pay for high-rate legal work. Add the the rise of Apple to become the first \$3 trillion company, and the fact that all four media companies in the world with 2 billion or more users (Facebook, Instagram,

What’s Ap and YouTube) are headquartered in NorCal. Throw in life and bio/sciences, renewable energy, the space sector and the push to innovate self-driving vehicles.

Now you’ve got the world’s fifth largest economy hot in the oven with a legal sector groaning from the heat.

In addition to NorCal/SoCal, we’re likely to see continued sturdy growth in three additional California geographic markets. San Diego and Orange County have thriving pharma, life and bio-science corporates fed in part by UC San Diego and UC Irvine, ranked #8 and #9 among the top public schools in the country, and UCI School of Law flirting with the top 20. Long somewhat of a sleeper of a legal market, Sacramento portends to be a hotbed of regulatory activity as regulation moves away from D.C. gridlock to the state legislatures.

The deployment of private capital, M&A and capital markets will continue to be the big drivers of success for California lawyers. Late-stage private companies worth over \$1 billion will continue to be a sweet spot, but the California constellation of large cap public tech, social media and entertainment companies either headquartered or maintaining a substantial presence in the state and up and down the west coast will drive a cornucopia of legal work across the full spectrum of California law firms. Count among them Amazon, Amgen, Apple, Cisco, Facebook, Genentech, Google, HP, Intel, Microsoft, Netflix, Oracle, Nvidia, Intel, SpaceX, Starlink, Tesla, Uber.

California will be a brew of anything and everything related to innovation, including tech, energy and finance. You name it: antitrust, cybersecurity, privacy, big data, AI,

entertainment, patents and patent and bet-the-company litigation, securities litigation (particularly coming off the year of the “SPAC”) private wealth, employment law, wage and hour litigation, health care, bio-science, life science, bio-wearables, bio-computing, Fintech, crypto, environmental, including land use, climate change clean air and clean water, clean and renewable energy, affordable housing, and on and on.

All of this portends for strong demand for legal services in California in the third year of the pandemic and well into the future. This demand is bringing on a new wave of some of the world’s top law firms migrating to California that is unlikely to stop. With lawyers in short supply and a tiny pipeline for new ones (.7% annual growth nationally), the talent war will be fiercer than ever.

Which is why the Great Resignation is happening in California’s legal sector. Opportunities for talent abound in big law, mid-size and small firms, not to mention inhouse. Associates across the board are moving on to better paying positions, some of them receiving six-figure signing bonuses accompanied by promises of being able to work remotely long term. Larry Watanabe, California’s recruiter-in-chief, may aptly predict that, “If you’re hired remotely, the prospects of making partner are low,” but how many of these associates envision partnership in their future anyway? They’re going for the gold now and they’ll worry about the brass ring later. The work is intense and the hours are long, but you can work at home and wear your sweats. Don’t be surprised by another round of pay increases before we turn the page

on 2022, and certainly by the end of 2023.

Booming demand and the constrained supply of lawyers has other ramifications, too. More than a few top firms pushed through double-digit percentage rate increases last year. Others have plans to follow this year. Top partner rates have cracked \$2,000 per hour. And these rates are sticking. Realization is the highest it's been in well over a decade.

But growing revenue and profitability alone don't solve the partner-as-free-agent conundrum every firm faces today. With a growing number of \$25- to \$50- to \$100-million books of business

brought on in no small part by convergence and top partners pushing past \$10 million a year in compensation, every firm is at risk of losing top talent to a poacher. The day of the 4:1 or even 5:1 highest to lowest earning equity partner compensation ratios have given way to 10:1 and an increasingly commonplace 15:1 and even 25:1 for the most at-risk firms. That brass ring that not long ago was worth \$7 million a year for a top-tier partner is now worth more than twice that much.

All of this has led to an inconvenient truth: Size matters. Large firms that have high revenue, high margins, and high levels of

profitability continue to widen the chasm between themselves and the next tier. Compounding is the silent killer of the competition. The gap between the profits per equity partner at the uber-successful and the rest of the market is enhancing their ability to grow by poaching la crème de la crème of partner talent in the hottest markets, including in California. We are likely to see more top talent moving to these T-Rex firms in 2022. Yes, you still win the war for the best talent, clients and work as a boutique, or you can differentiate yourself by focusing on core highrate markets, but you better have scale and other differentiators

attractive to talent and clients to prosper.

A word to the wise: Bull markets never last forever. Countercyclical practices provide insurance in the downturns. Look to bankruptcy and restructuring, particularly in commercial real estate, and litigation, should something trip up the economy. Inflation, proxy wars and domestic unrest are also real and present dangers for the economy.

Peter Zeughauser is chair of Zeughauser Group, LLC, a consultancy of trusted strategic advisors to the leadership of leading national and international law firms.