THE AMERICAN LAWYER
An ALM Publication
americanlawyer.com
March 2, 2021

The Outperformers: What Sets Big Law's Most Successful Firms Apart

In a difficult year, a subset of firms separated from the rest of the market with double-digit revenue and profits growth. A closer look reveals the common threads that tie them together

KENT ZIMMERMANN AND PETER ZEUGHAUSER

Last year turned out much better than many firms feared in the spring. When all of the results are in, we expect to see a sizeable minority of the Am Law 100 that were up double digits on both revenue and profits per equity partner in 2020 versus 2019. Those firms will have outperformed the market. We will call them The Outperformers.

What were the drivers of The Outperformers' success? In our work and conversations with law firm leaders, including many who lead firms that blew the doors off last year, we have observed a handful of drivers that are propelling The Outperformers.

Among other things, these firms develop and commit to strategic plans, and cultivate and manage cultures of high performance with discipline; they align profitability and compensation with those commitments; and they have deep knowledge of the markets on which they focus (practices, sectors, cities) and the competitive landscapes that surrounds them. They regularly demonstrate the agility to embrace market shifts, and they pick their spots—their centers of excellence if you will—then prioritize their time and money around building reputations for preeminence in those areas.

While none of this is easy, law firm leaders who aspire to join or remain among The Outperformers and achieve their outsized revenue and PEP growth can start by understanding what fuels those firms' success.


SHUTTERSTOCK

To identify what allows The Outperformers to outperform, we'll break down the drivers of their success in a series of articles, starting with this one. First, let's look at how firms commit and manage with discipline to a plan and a high-performance culture.

Strategic Plans: A Shared Vision of Success

The Outperformers typically have a plan that includes an aspirational but reasonably achievable vision of what their partners want to build together, and clear priorities and goals to get there. In other words, these firms typically have an appreciation for their current market position, Point A; and they have a clear understanding of the market position they are working to achieve, Point B. Point B is the vision. An effective vision not only demonstrates choices about priorities, but it also is a market position that will distinguish the firm favorably in the minds of the sought-after lawyers and clients the firm will need to attract and keep in order to achieve their vision.

In developing their plan, most firms conclude that they like who they are, but they aspire to be a stronger version of themselves. In other words, they aspire to have a deeper bench of quality in chosen areas, they aspire to raise their batting average when competing for the most sought-after lawyers and matters, they aspire to continue to increase the level of their financial performance, and they aspire to make their brand as strong as it can be. To accomplish things like these, and to have a framework for making choices about how to use the firm's time and money, firms need to create and follow a plan.

While some firms can take a top-down approach, most cannot—they will have heavy lifting to do to build consensus and buy-in around their plans. That often means a series of consultations with the firm's formal and informal leaders, to seek their input, respond to their concerns and criticisms and, ultimately, to secure their buy-in. It often helps if leaders inform consensus-building consultations with data and intelligence on the relevant competitive landscape, showing where the firm stands, the benefits of market leadership in chosen focus areas, how a rising tide will lift all boats, and what it will take to make it happen.

For a firm that does not have a written plan it can be challenging to develop one, but the outsize success of The Outperformers shows the value many firms get out of picking their spots, having a plan, and managing to it with discipline.

Managing to a High-Performance Culture

The Outperformers generally prioritize and manage to the interests of the high-performing partners in their firm. This starts with the recognition that high-performers usually want to practice with other high-performers. This creates a more satisfying experience and an advantage in attracting and retaining sought-after lawyers, clients and matters.

In recent years, and through last year, The Outperformers have given themselves flexibility to set or at least keep up with the market in compensating their most significant contributors. Last year, we saw some firms use the economic uncertainty created by COVID-19 as cover to reallocate profits to compensate their high-performers in line with what they could command on the open market.

With volatility and uncertainty likely to linger at least through the first half of this year, many firms have an opportunity to follow the leaders by turning the present environment to their advantage and reallocating their profit pools for their overperformers and underperformers alike.

The other key element of a high-performance culture is setting and managing to a clear bar of what it takes to become and remain a partner in the firm—not only related to multi-year average on productivity but also related to bringing in work, leading and managing highly profitable teams across practices and offices, and producing results that make clients want to keep coming back. Some firms have developed "platform score" approaches to scoring and rewarding partners for the extent to which they serve top clients across practices and offices.

Of course, setting expectations is relatively easy for most firms. Part of what distinguishes The Outperformers is that they clearly and consistently communicate their expectations of partners. And they proactively encourage and assist those who chronically fall short of expectations to find positions elsewhere (often measuring underperformers over a three-year period, with exceptions made for extenuating personal circumstances). If it's done well, the firm gets a happy alumnus who may become a client and, one day, a source of referrals. The Outperformers' success in turning these departures into win-win situations—while many of their competitors allow chronically underperforming lawyers to make less but stay in the firm—is a big reason for their success.

Leaving aside the financial impact, a culture of mixed performance turns off many high performers who want to practice with other high performers. Uncertainty about whether quality and responsiveness will meet their own high standards causes them to think twice about serving their clients across practices and offices.

Of course, the high-performing lawyers also know that they'll have an easier time attracting sought-after clients and lawyers to a platform that is a well-oiled team of consistent high performers.

Among The Outperformers, there is a cultural expectation that nothing less than outperformance will do. Subject to minimal established exceptions, everyone knows going in that it's either up or out. Even for those who depart, because the firm is highly regarded as an Outperformer there will always be value in having the firm's name on their CV. By setting these expectations clearly, there are no surprises and the departing and remaining partners both get the benefit that goes along with having been part of an Outperformer.

The firms that make choices and articulate a vision and plan to achieve it, execute with discipline, and manage to the interests of the high performers in turn tend to attract the most lucrative client work, which often propels their firms to above-market growth in revenue and PPEP.

In two subsequent columns, we'll explore other drivers of The Outperformers, starting with the ways they focus on measuring profitability and aligning their profitability goals with their approaches to compensation.

Kent Zimmermann *and* ***Peter Zeughauser*** *are partners in Zeughauser Group, a team of former Global 25 law firm chairs, general counsel, and leading law firm CMOs. As broadly skilled trusted advisers, they counsel leaders of top-ranked global, international, national, regional, and boutique firms on the challenges and opportunities they face as a result of increasing competition for sought-after talent, consolidation, segmentation and internationalization of the market for legal services. They have advised on many of the most high-profile law firm combinations over the past decade.*

The Outperformers, Part 2: How Profitability, Comp and Culture Separate the Elites

Standout firms are growing faster than their peers by focusing on profitability and reaping the rewards.

*Editor's note: This is the second in a three-part series on what separates the top-performing law firms from their competition. The **first part** focused on strategic plans and managing to a high-performance culture.*

In the legal profession, all dollars are not created equal.

As astute observers know, just because two partners are bringing in $1 million doesn't mean they are making equal contributions to their firm's bottom line. Similarly, two practice areas bringing in $100 million might have dramatically different profit margins.

Big Law leaders well understand that profitability of a book matters. A lot. A common driver of success in firms that outperform the market is that they increasingly use their compensation systems to reward partners whose books are accretive to profitability, particularly if the book comprises work and clients the firm wants most—clients that perceive and pay for value that correlates with the firm's published rates. In doing so, these firms enhance their financial performance, become better known for work in their chosen areas of focus, and incentivize the creation of a healthy, high-performing culture that attracts and helps retain the best talent.

In this column, the second of three on 2020's Outperformers—firms that not only exceeded expectations amid the pandemic but blew the doors off on their financial metrics—we will explore why law firm leaders are increasingly measuring and using partner profitability to strengthen their firms and to attract and retain sought-after lawyers.

SHUTTERSTOCK

Let's start with profitability. There is no single profitability model. In fact, how firms should measure profitability is a matter of considerable legitimate debate. Indeed, most firm leaders who have looked at it would say there is no right way.

When it comes to choosing a model, firms shouldn't let perfection be the enemy of good, although they often do. Even an imperfect profitability model is preferable to managing without one, as long as it propels the growth of profitability, key client relationships, and chosen areas of focus.

The key is to move beyond the thinking that has driven partner compensation and advancement and lateral recruiting in many firms for years: that the size of a partner's book of business is what matters most. Instead, among the Outperformers, contribution to net income ranks high in importance, especially if the revenue is scalable and derived from core high-rate practices and strategic client relationships.

The Outperformers balance growing revenue with growing profitability, and they are laser-focused on chosen markets—areas of strength that allow them to command and raise their rates more, and more quickly, to close the gap between themselves and their aspirational peer group. Typically, this means a focus on work for which the outcome is more important than the price. (For example, private equity, M&A, certain IP litigation, mass tort class actions, transfer pricing, and white-collar investigations.),

The Outperformers are also increasingly focused on industry sectors that are outsized consumers of sophisticated legal services such as tech, life sciences and health care. Planting a flag in cities where key practices and sectors overlap is the trifecta of success for Outperforners. Examples are capital formation and M&A in Boston for life sciences and in the Bay Area for technology.

Profitable Partners

The Outperformers are not only tracking which partners—inside and outside their firm—are driving profitability in their chosen areas of focus, but they are also developing new ways to recruit sought-after laterals and to retain existing and rising stars in an unyieldingly competitive and cut-throat market for talent

For instance, many Outperformers are relying less on endless entreaties from recruiters and incoming employment inquiries. Instead, they are proactively combing the landscape in consultation with clients and the high performers in their firms to identify and initiate long-term pursuits of the laterals they most want.

Using these strategies, Outperformers are building talent pipelines to set their chosen areas of focus on course for continued growth, often focused on next-generation stars in their 30s and 40s. Some Outperformers have success poaching strong teams out of firms with uncertain futures or from firms that do not pay their rising stars competitively with what they can command on the open market. Sometimes this is because the firm is underperforming, but frequently the most easily recruited laterals come from firms using out-of-date metrics for partner compensation. We turn to that next.

Compensation Equation

To retain sought-after lawyers and ensure the best laterals come to them, many Outperformers are revising their approach to partner compensation in ways that give them more flexibility to offer attractive packages to top talent who they most need to keep and attract to achieve their aspirations.

Historically, too many firms have been reluctant to manage their underperforming partners. They let underperformers languish in the firm, either overcompensating them relative to what they could command on the open market, or paying them commensurate for the little revenue they generate and letting them stay and continue to underperform. Some rationalize these decisions. But the Outperformers' cherry-picking of elite talent in high-rate markets has been a game-changer. It mandates building a high-performance culture across the firm.

Outperforming firms that have achieved scale relative to their competitors in their chosen markets benefit from greater year-over-year compounding, giving them a growing advantage when recruiting star talent. Other firms can ill afford to compensate their sought-after lawyers below what they can command on the open market.

Many firms have historically been proud of their compressed partner compensation ratios as evidence of a strong culture. But that is changing. It used to be that comp ratios of 4:1, 10:1 or 15:1 were common. Now it is common to see higher ratios, even 25:1, 30:1 or more, and they are going up.

Too much change too quickly risks tearing a firm's cultural fabric So outperforming firms increasingly have partners set goals to align their compensation with achieving the firm's strategy and growth goals. They often ramp up changes over time, balancing the imperative to compete in the talent market with the desire to avoid changing culture too quickly in the minds of their high-performers. In doing so, firms are increasingly managing to the interests of high-performers with respect to compensation and strategy more broadly.

Fostering a weak culture to retain underperformers as opposed to changing the culture to one of high performance is a recipe for a failed growth strategy. Prospective laterals will make other choices. Established and rising stars will do the same.

Close Connections

Money isn't the only way law firm leaders are bonding with the best and brightest within their ranks.

Effective leaders among the Outperformers have long focused on developing personal connections between themselves, other leaders, and the rest of the partnership, especially by making frequent connections with significant contributors and rising stars.

In the age of COVID-19, this has often meant a large number of brief but regular video check-ins with partners driving profitability in key areas. Doing this consistently with discipline is a significant investment of time in these partners and the clients they serve, who, together, are the lifeblood of the firm's future. Regular face time allows leaders in Outperforming firms to keep relationships of trust strong, to understand what drives and frustrates their high performers and rising stars, and to conceive, launch and enable initiatives that further propel their success and create opportunities for others in the firm.

Outperformers find that building a culture that encourages profitability requires utilizing all available management levers. That starts with a profitability model to guide the execution of the firm's strategy, and then requires discipline in making choices and prioritizing time and money around the practices, industries and cities that are most important to achieving market leadership.

As other firms pursue similar strategies, Outperformers realize that nothing is more important than retaining and attracting sought-after lawyers and clients. To do that, Outperformers recognize what sought-after lawyers want most: to be paid competitively and to be on a winning team.

The Outperformers, Part 3: What 2020 Taught Firms About Real Estate, Diversity and Strategic Growth

For 2020's most successful firms, the year offered valuable insights into the future of their workplaces, their talent and their overall trajectory.

*Editor's note: This is the final in a three-part series on what separates the top-performing law firms from their competition. The **first part** focused on strategic plans and managing to a high-performance culture, and **the second** focused on profitability, partner compensation and culture.*

For law firms that previously considered shrinking their physical footprints, the past year offered an unexpected chance to test out more flexible work arrangements. And the results were often better than anyone could have expected.

That is a common theme as firms report on their 2020 results. And it is one example of the ways the pandemic accelerated, and in some cases validated, trends that have been brewing in the industry since well before COVID-19 turned the working world on its head a year ago.

In this third installment of our Outperformers series, we will focus on the likely lasting effects of 2020, with a focus on three transformative trends: real estate right-sizing, strategic growth, and diversity and inclusion.

Reconsidering Real Estate

Even before the pandemic upended where lawyers work, most Outperformers were identifying approaches to reduce fixed costs. Some firms were already giving equity partners more flexibility to work remotely, or had plans to scale back the percentage of dedicated offices for associates and staff.


SHUTTERSTOCK

For firms with a culture predisposed to providing equity partners and sometimes others with flexibility about where to work, 2020 served as a bridge to the future. At the same time, firms that harbored concerns about how remote working might affect their culture or individual productivity now have a year of hard evidence to inform decisions about the future. And in most cases, leaders of these firms were pleasantly surprised by the remote-work results; many are putting all options on the table in deciding what makes sense for their firm's long-term approach to office space.

Of course, we don't expect to see law firm leaders embrace remote work as warmly as leaders in tech or consulting. But many Outperformers have now seen that it can work and believe it can be a recruiting advantage for certain sought-after stars, and many leaders at these and other firms tell us they see a future with a smaller percentage of dedicated offices, particularly for associates and staff.

Three vexing challenges remain for firms that embrace remote work more boldly. First, its disparate impact on women lawyers and staff from underserved communities. Second, the increased rates of alcoholism and drug dependency among people working at home. And third, the impact that anxiety-induced loneliness and depression from lack of interaction with colleagues has on judgment and performance. These three factors are likely going to lead to flexible remote work policies.

Coming out of 2020, Outperformers and those that want to emulate their performance are more motivated than ever to reduce fixed costs where they can. Many report that 2020 revealed fat in their budgets that should have been cut out a long time ago. And they see an opportunity to be more efficient with not only real estate, but also with certain tech and administrative functions—to free up more money to attract and retain sought-after lawyers.

DE&I Is Mission Critical

A generation ago, diversity, equity and inclusion initiatives were seen merely as the right thing to do, but many firms viewed diversity efforts as peripheral to achieving their principal business goals. However, in the wake of the George Floyd killing and related events, views and expectations in law firms and beyond have shifted dramatically, and by late 2020, among the Outperformers and many other firms, DE&I has been embraced not only as a social imperative but also as a powerful vehicle to create competitive advantage.

Outperformers recognize a diversity of teams and ideas as a strength that, all things equal, gets better results. Outperformers are prioritizing diversity in their talent pipelines, and some are making long-term investments, many even reaching down to high school students, to expand their pipeline so that teams can increasingly reflect the composition of the clients and markets that they serve.

For these reasons and based on what we have heard anecdotally from the Outperformers and other firms, we expect to see many firms make material gains in DE&I this year, particularly with respect to gender diversity among equity partners, with some making smaller strides with respect to other diverse people. We expect this to materially strengthen the ability of these firms to enhance key client relationships, and grow profitability.

How Growth Strategies Have Changed

The Outperformers are strategically expanding their business in thriving sectors and practices that are an increasingly significant part of U.S. and global GDP, particularly when the businesses are routinely attracting outsized investment. Firms that make choices about what they want to be known for appreciate that clients respond to specialization, and they want lawyers who know their industries and their businesses. In turn, firms prize partners who are viewed as indispensable for complex work in the minds of sought-after clients, particularly partners who become thought leaders in boardrooms, raising their firm's profile for board-level and other work that is generally less rate sensitive.

Rather than chasing revenue growth and marketshare broadly, the Outperformers frequently prioritize their growth around a limited number of areas of focus, identifying partners, clients and projects that that raise profile, build prominence and command the firm's rates in target industries, practices and cities.

As an example, Outperformers are looking at Salesforce's $27.7 billion purchase of Slack as a high-dollar harbinger of things to come, as big players across industries seek tech acquisitions that drive innovation and disruption. Outperformers see similar moves happening or on the horizon in red-hot areas—including bio-science and bio-computing, increasing investment by health care companies in technology and increasing investment in fintech—and are investing in the people and offices necessary to stake out their territory, often extending existing strengths to do so successfully.

As firms start poring over available performance data about 2020, they will see that many of the Outperformers placed themselves at powerful intersections of sectors, practices and cities that drove market leadership in chosen areas of focus, which became a magnet for sought-after people, clients and matters.

STEM Talent, Data and Analytics

We also believe Outperformers will increasingly invest in STEM talent and build out their data and analytics functions, just as other industries have done. In legal, this will allow firms to better understand the attributes of their high performers, in order to guide rising stars and attract more of them. Better data and analytics will also fuel advances in effective pricing strategies and models. It will also advance client strategies, by identifying the elements of the firm's most successful relationships, in order to attract and create more of them.

2020 will forever be a year defined by tragedy and loss. For the legal profession, it was also a year of resilience and acceleration. It forced transformative changes to how lawyers work, some of which will have a long-term impact. 2020 also shined a spotlight on opportunities for most firms to strengthen their financial performance and evolve their models for the future.

And for Outperformers, it validated strategies and initiatives that most have been pursuing for years.