

In Times of Planning Uncertainty, Fall Back on the Basics

By [Michael D. Short](#) on November 14, 2023

As we all gaze into our crystal balls and try to predict what will happen in 2024 with any degree of certainty, our views are pretty hazy. Think back to this time last year, which was filled with much handwringing, nervousness, and qualifiers/fine print in our presented budgets. Now, fast forward 12 months to a time where much economic uncertainty remains (per the NASDAQ.com headline “2024 Recession Odds: America’s CEOs Forecast 84% While Fed Officials Insist 0%”) AND the industry- and life-changing topic of AI was foisted upon us all AND we’re going into a major election year. Additionally – and tragically – there is now a second war.

When thinking about the future of the legal industry, which impacts and is impacted by these broader contexts, I find it helpful to focus on things we can control. As planners, we need to ‘move the needle’ as much as we can within any planning period and with finite resources of time and money. As such, balance is required, and we need to always focus on some combination of longer- and shorter-term issues to create the optimal strategic advancement of the law firm.

Each partnership’s list of priorities is, of course, unique. At a higher level, below are a few needle-moving, shorter-term, and recurring challenges/opportunities for your planning consideration.

1. Admissions into the **Equity Partnership** are, perhaps, the most important decisions that this group makes every year. This ownership group should be viewed as an elite team, with membership being a) difficult to achieve, b) guaranteed for no one, and c) a really big deal. This is not just another promotion because a Partner’s ability to directly participate in the profits of the firm needs to be earned and maintained every year.

Worst case scenario – Any partnership is also known for its weakest link/member. The introduction of “this is my Partner” conveys trust and confidence in this person to any third party. Those sentiments need to be truthful.

2. You need to understand – and be able to describe – your firm’s **culture** at a deep and (hopefully) emotional level that really connects with your talent...and (hopefully) your clients too. All law firms are groups of potential free agents who choose to re-assemble each day. Why does this happen and what is so special about your firm’s culture? It must be so much more than being ‘collaborative’ or ‘entrepreneurial.’ Those descriptors are nearly universally applied, which means they are not differentiating at all. What is your glue? Is it a set of core values that defines your firm? Generally accepted behavioral norms? You have a unique story. Find the words.

Worst case scenario – Another way of evaluating your culture is to assess it through a negative lens. If your culture is defined by the worst behavior that you tolerate, how are you doing now?

3. Overall **work ethic and pace** within many firms is slipping materially. In our post-pandemic world wherein a) remote working is viable and b) most firms had some of their best financial years ever, even more lawyers across all generations were reminded that one can make a very fine living as a lawyer for a more than reasonable work commitment and pace. Furthermore, in some firms that rely heavily on production/hours-based bonus programs, an increasing number of younger lawyers self-selected a pace that a) works nicely for that lawyer, b) frustrates the Boomers to no end, and c) sends a message to everyone that ‘pace’ is unilaterally set by the individual lawyers.

While that sounds great, there is one important group that is directly and negatively impacted by all of these – the clients. Law firms operate in a very simple supply/demand (of time) business and if firms don't have control of the supply side of the equation – and clients are impacted...they will take their demand elsewhere. Re-education about what a reasonable pace represents is required in many firms. For example, if one agrees that a 50-hour work week is a reasonable pace, then that same person needs to know that 50 hours per week with four weeks off is a 2,400-hour total annual commitment to the firm (billable plus investment time). The pace doesn't stop at some much lower billable hours achievement, which is the current thinking of many lawyers. Where is the rest of that time going? Vaporizing because the Partners don't see any value in non-billable time? Within many firms, it's time for an agreement/reset on what a reasonable overall pace is.

Worst case scenario – A young lawyer who chooses to forego working toward any bonus and, basically, stops once a billable hour requirement for a base salary is achieved will attract others toward that model and attitude.

4. All leaders (firmwide, practice level, office level, etc.) must understand that if they don't start **developing their successor** on Day 1 of their appointment/election, it won't happen on time. Job #1 of any leader is to identify and develop candidates to take over some day, yet far too many leaders shy away from this task because it may expose personal weaknesses or create someone who is actually better suited for the position. If optimization and/or self-improvement are goals, then these outcomes should be welcome. Unfortunately, reputation-guarding and self-preservation usually win out. Furthermore, most don't recognize that it takes years to develop successors...not months. Far too many wait until the last year in their position and then simply identify the best available or most popular candidate, rather than handing the position to a well-trained successor. This lack of process and accountability makes little sense.

Worst case scenario – A key competitor figures this out, formalizes succession planning, and steadily takes market share due to stronger leadership.

5. Financial success is not about revenue, it's about **profits**. People in other industries laugh at our maniacal focus on top-line revenue, even though our owners are paid directly from the profit pool at the bottom of the P&L statement. Furthermore, far (far far) too many Partner compensation systems are still driven largely by the book of business...with little regard to the profits generated from the book. Any two Partners who generate the same revenue and are paid the same amount are not generating the same amount of profits. If the delta between the two profit contributions is small, then a similar compensation amount is justified. If this delta is material, then there is a remuneration challenge that, admittedly, can take years to fix. Profitability reporting can wreck a nice firm's culture if mishandled and developed poorly, so let's handle it properly and develop it well. We all know where the dangers lurk.

Worst case scenario – From the example above, the Partner who generates more profits is lured away by a competitor who understands all of this and is willing to pay more for the book.

6. **Keep pushing on billing rates.** Yes, we've been talking about the death of the billable hour since before I started in this industry (1988!). While I think AI, combined with new perspectives on 'value' from non-Boomers steadily taking over as the economic buyers of legal services, will likely push us to this place at some point, we aren't there yet. Therefore, staying at an appropriate market-driven level on rates remains the most important driver of profitability under our immediate control. It also pushes the value of all services to an appropriately high level if (when?) fixed fees really take broad-based root.

Worst case scenario – The psychology of pricing is alive and well among clients of law firms, who regularly tell us that billing rates convey to them the lawyers' perceptions of the true value of their own time. Keeping rates artificially low (“for the benefit of our long-standing clients”) may actually drive some of them into the open arms of competitors.

7. **Be aggressive** in your planning and budgeting. Lawyers are trained to never fail at anything. Businesspeople know that it is far better to come up 10% short against aggressive goals than to sail past modest goals. When dealing with the business of law, be businesspeople...not lawyers.

Worst case scenario – A competitor figures this out, generates more profits, and then uses those profits to lure your talent away.

Of course, there are other examples.

Balancing the weight of broader problems and challenges with the shorter-term, basic planning needs of the firm is quite difficult in these odd and uncertain times. The good news is that there is an appropriate list of planning priorities for each firm. Make your educated guesses on the broader economic context and set your priorities – including AI – against that forecast, however murky it may be.

Best wishes for a prosperous, safe, and peaceful 2024.