

## Rhetorical Investment Questions for 2022

By [Michael D. Short](#) on November 30, 2021

In 2018, I posed [a list of rhetorical questions](#) for law firm leaders to consider in the coming year. I hope most leadership teams have addressed those questions because, as the business model evolves and the challenges grow exponentially, the questions just become more challenging.

As I started to draft a new set of rhetorical questions for 2022 (below), I noticed two things – 1) the questions I posed back in 2018 were “softballs” in relation to this new batch, and 2) some variation of the word “investment” showed up often in my summaries. So, for your consideration in the coming months and years, I offer the following rhetorical investment-related questions:

- *Would you invest your life savings, personal reputation and future earning potential in an organization that doesn't have a real strategy?*

Many law firm Partners do.

By “real” strategy, I mean one that is not created in a rush by incredibly busy people who seek to placate all stakeholders, make everyone happy, and avoid investment decisions. Rather, I'm talking about the really difficult strategic plans that define/identify winning competitive characteristics, marketplace positions and/or value-delivery differentiators and include detailed plans on the **investments** (of time and money) needed to accomplish the goals.

Far too many law partnerships currently rely HEAVILY on past successes and established ways of doing things as their bases for competition in the future. If this is the state of affairs in your firm, please remember one of my favorite quotes from Will Rogers, “Even if you are on the right track, you will get run over if you just sit there.”

- *Would you invest your life savings, personal reputation and future earning potential in an organization (firm, practice group, industry team) with part-time leadership that is not trained, supported, or rewarded?*

Many law firm Partners do.

While other industries look at their leaders in terms of value delivered to the organization and stakeholders, so many in the legal industry still view key leadership positions in terms of “lost production”. Law partnerships often want leaders who won't screw things up or rock the boat, rather than those with visions and supporting plans to achieve real and needed changes. As such, many partnerships want part-time leaders who are still “semi-productive”, with the hopes of minimizing the cost of the lost hours that must begrudgingly be dedicated to management chores. Then, come compensation time, these poor leaders get whatever any Partner would get for the same billable time, supplemented with some stipend or subjective bonus to bring these brave souls up to where they would have been if they had not taken the job. There is rarely a significant upside for leadership tasks or incentives to achieve extraordinary results.

Leaders in other industries privately chuckle at our business model. They are often trained, groomed, mentored and prepared for their jobs from day 1. They also operate under creative incentive programs that are linked to strategic successes, some of which may require investments that negatively impact short-term share value in return for major

gains later. Meanwhile, many law firm leadership posts are given to safe bets, big books or squeaky wheels who are not trained, appropriately supported or rewarded.

Some creative and bold firms are making serious moves on this issue, but I do not expect broad-based progress until external investments in law firms are allowed more universally. Those investors will be much less tolerant of the current attitudes toward law firm leadership. Until then, I am hoping for modest investments and improvements...particularly around creative, aligned incentive programs. We are doing this with a few willing partnerships, and we expect more to follow.

- *Is non-billable time still “worthless” and, in some instances, not even worthy of being recorded or tracked?*

I remain a huge fan of recording investment (i.e., non-billable) time for 2 important reasons –

Reason #1 – To create a mindset that this time is spent on the firm’s most important client – the firm itself. This is a large pot of time that should be invested in activities that truly benefit the firm and result in future growth (of headcount, revenue and profits). The workday – particularly for the owners of the firm – cannot begin and end in just the billable world. By recording and tracking this time, it can be managed to the greatest good/highest return for the firm in coming years. As an example, one could view the implementation of a strategic plan as the desired direction of this invested time to generate the greatest return from those efforts. What gets measured gets done and building the firm for long-term success and growth always needs to get done.

Reason #2 – To promote a culture of equitable contribution and equal dedication to the enterprise across the firm. All legal careers will have peaks and valleys. As a result, annual billable hour totals for any individual will rise and fall across time. However, a down year is not an excuse to go home once the billable work is done. All stakeholders owe the enterprise a roughly equal overall commitment of billable and investment time annually. Personally, I believe that a minimum all-in level of 2,400 hours (48 weeks at 50 hours per week) for an owner is quite reasonable.

Important note here – the focus from this point is on the mindsets and the attitudes of the lawyers as current or future owners...not on the mechanical exercise of entering time and “Big Brother” watching every move people make. If the mindset exists and efforts are consistent then congratulations.

- *Can you afford to let profitability reporting and management progress at a glacial pace?*

While most partnerships intuitively understand the incredible value of this data, many continue to kick this can down the road because they cannot agree on a) the details of the report itself (e.g., how or if to include allocated overhead), b) how to use the data, and/or c) if it should be used in compensation decisions. Furthermore, they hear from others that this data will ruin their firm’s culture.

To be sure, profitability analytics can ruin a fine partnership if mis-designed, mis-launched, or mis-used. So, take the time to design, launch and use this data correctly. Some partnerships have figured this out and are building the foundations for long-term competitive advantages by really understanding how they make money (revenue AND profits) and how they can make more to invest back into the firm. In any small competitive marketplace, a major mover on profitability can be a disruptive force.

Be that force and create a thoughtful, tailored, patiently implemented profitability program that enhances your firm’s culture rather than wrecking it.

- *Can you afford NOT to innovate...or at least create a culture that celebrates innovative thinking?*

There are myriad definitions for “innovation”. For this section, I start with Peter Drucker’s version – “the task of endowing human and material resources with new and greater wealth-producing capacity”.

Right now, the concept of “innovation” is at a stalemate within many law partnerships due to the precedential nature of the legal industry. We still hear leaders and key Partners say, “Before we invest, we need to see which firms have done this already”, which reflects an attitude that completely negates the entire concept of innovation, stifling both idea-development and investments.

A key strategic challenge for many firms is that winning market share, which often involves taking market share from a competitor, can be accomplished via a variety of factors including innovation. While this concept is still in its naissance at many firms, pressures build on the business model from clients and third parties (e.g., Alternative Legal Service Providers). Partnerships that do not learn to innovate on their terms will be forced to play a potentially embarrassing and clumsy catch-up game later on.

The stakes are high. While the industry innovates by developing ideas that have been around for years, at some point creative law partnerships will really push the envelope with their ideas. Once clients notice, a major competitive threat results.

I close this section with Stephen Shapiro’s definition of innovation. It’s short and sweet – “staying relevant.”

- *Can you afford to NOT invest in the long-term?*

The legal industry is caught in an ugly trap due to the publication of financial results in annual surveys and the related pressure to get the economic results as high as possible each year. This encourages recurring short-term thinking. Unfortunately, investments in the long-term future have never been more important. All law firms could annually sprint to a maximized year-end when the business model was static, but the coming years will be full of unknowns, great challenges, and immense opportunities for those who view this as more of a marathon and invest accordingly. The net result will be a greater separation between those partnerships that are winning market share and the losers of the same market share.

I suppose I can close with one more rhetorical question – *Will any resulting actions or responses to any of these questions be seismic or jarring to the partnership?* Of course not. Otherwise, sincere support will not follow. Each partnership has its own style and capacity for change. Now is not the time to exceed any partnership’s capacity for change...but please get as close to that thin line as you can.

Best wishes.