

# Modern Lawyer

Ideas for Legal Leaders

Editor: Catherine McGregor

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## Featured in this issue

*New ways of looking at leadership – living life, and leading, effortlessly*

*In-house legal's vital role in ESG and law firm opportunities*

*Redefining leadership – talking OUT Leadership with Nokia*

A collection of rubber ducks on a teal background. There are four yellow ducks and one white duck. The white duck is in the center, facing forward. The yellow ducks are positioned around it, with one at the top left, one at the top right, one at the bottom left, and one at the bottom right. The ducks are casting shadows on the surface.

## Redefining Leadership



### **Welcome to *Modern Lawyer*.**

There's a recurring theme of leadership throughout this issue of *Modern Lawyer* centring around the idea of how we need to redefine leadership.

Our headline article focuses on Nokia's innovative Out Leaders programme which focuses on developing LGBT+ talent as leaders. It's not confined to the legal team but chief legal officer, Nassib Abou Khalil, was one of its architects.

The programme is focused very much on collaborative and inclusive leadership styles and on the notion of beginning to develop leadership skills earlier on in your career. This is in contrast to much traditional corporate and legal focus on leadership where you only start thinking about it when you have a leadership role or are about to embark on one.

Leadership expert Michelle Elstein has a unique take on leadership. Her company Courageous Counsel uses experiential techniques drawn from both the leadership and fitness industries to problem solve, build corporate cohesion and improve performance. In her article "Will you lawyer or lead your way out of the pandemic", Michelle looks at the importance of self-leadership. These are leadership skills which are not just for lawyers but are central to ensuring you have the resilience to perform at your best in challenging and changing circumstances.

Those ideas are given a related but slightly different angle by Eric Ho in his piece on leading effortlessly. Eric's work focuses on leadership and the ways in which health, happiness and productivity overlap. He believes the best leaders focus not just on what they do but also on how they are performing as leaders. Too often, leadership ideas can focus on what leaders do and their productivity – but as leaders we need to consider the holistic picture of how we do what we do and also how we encourage others to be their best.

A key issue that all leaders need to focus on now is ESG (Environmental Social Governance). E Leigh Dance and Anna Mazzioni explore the vital role that in-house lawyers are playing in this area.

We're also delighted to feature the perspective of a law industry thought leader in "A legal life" where we hear from Professor Stephen Mayson.

We are committed to having a diverse range of voices in our content. If you would like to write for us or even to try writing for the first time, please contact me at [catherine@globelawandbusiness.com](mailto:catherine@globelawandbusiness.com).

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# Contents

Volume 5, Issue 2, July 2021

## 2

### **FIRST THINGS FIRST**

#### **Addressing the challenge from all angles**

Bendita Cynthia Malakia,  
Susan Bright and Debra Hay

## 8

### **A legal life**

Stephen Mayson

## 12

### **New ways of looking at leadership**

Eric Ho

## 18

### **The change agent – taking the headache out of change**

Dominique Ashby

## 22

### **In-house legal's vital role in ESG and law firm opportunities**

E Leigh Dance and  
Anna Livia Mazzoni

## 28

### **Redefining leadership – talking OUT Leadership with Nokia**

Catherine McGregor

## 36

### **Will you lawyer or lead your way out of a pandemic?**

Michelle Elstein

## 40

### **Culture – somewhere over the rainbow or are we already home?**

Catherine McGregor

## 48

### **What do lawyers really want?**

Richard Hanks

## 50

### **Large versus smaller law firms – a multi-faceted choice**

Hermann Knott and  
Robert Millard

## 57

### **Cheaper to keep 'er – the economic impact of losing female talent at law firms**

Paola Cecchi-Dimeglio

## 62

### **THE MENTOR'S MENTOR It's ok not being ok**

Herman Stewart

# Large versus smaller law firms – a multi-faceted choice

Hermann Knott and Robert Millard

It used to be the received wisdom that bigger was better – every law firm seemed to want to be global.

But as lots of certainties about the business of law are turned on their heads, are the terms large and small for law firms merely semantics?

Hermann Knott and Rob Millard explore the different opportunities different types of law firms give lawyers and clients.



Career options within the legal sector have expanded rapidly in recent years offering greater choice to lawyers at all stages of their careers. From the client's perspective, legal service providers of different kinds and sizes offer a range of different value propositions and client experiences. While much is written from the perspective of law school graduates thinking about which firm they might join, less has been published from the perspective of lawyers who are contemplating their options later in their careers. While acknowledging that the range now available includes options such as in-house, the 'Big 4' global advisory firms, and alternative legal service providers, this article focuses primarily on conventional, partnership-based law firms.

Hermann is a corporate lawyer whose practice, spanning three decades, has included a major German law firm, a prominent global tax and legal advisory firm and (as of early 2021) a mid-sized domestic German law firm. Rob is a management consultant whose advisory experience, similarly spanning three decades, has included law firms ranging from among the largest in the world down to quite modest businesses, spanning a wide range of jurisdictions. Both Hermann and Rob are former co-chairs of the IBA's Law Firm Management Committee. This article is intended as a reflection on the differences between the various kinds of firms, as experienced internally by Hermann and from the perspective of an external adviser by Rob.

### Small and large – all semantics?

In the first instance, one needs to recognise that 'small' and 'large' are relative terms when applied to law firms. Even in quite sophisticated smaller jurisdictions, the large firms are typically of a size that would be considered small in jurisdictions with

bigger legal services

markets. A large firm in Switzerland, for instance, would be considered quite modest-sized in London or New York. Large global law firms can also differ widely in the way in which both lawyers and clients experience them. Some large global law firms, for instance, typically operate fully integrated 'one-firm firm' models across the world. Others have disaggregated governance models and perhaps even strategies, sometimes operating under a Swiss 'Verein' as an overarching structure. In between fall regional firms that are by no means global but whose business spans several jurisdictions, and large law firms with a single or a small number of offices. At a completely different scale, the fee-earner headcounts of the 'Big 4' global advisory firms dwarf

even the largest of global law firms, but a modest proportion of that headcount are engaged in legal services.

The number of lawyers in large law firms has increased steadily over recent decades, accelerating dramatically during the merger waves that occurred in the years following the global financial crisis of 2008/09. It is probably fair to say that some have grown faster than the pace at which their business models have evolved, hampering performance and alignment with client needs. In assessing a firm as a potential new platform for one's practice a lawyer should therefore consider deeper factors, well beyond simply scale and geographic spread.

### **'A small firm is not a little big firm'**

The experience of practising in a smaller or mid-sized firm can be radically different to that in a large firm. One of the most important experience drivers is the level of support resource available. John Welsh and Jerry White note in their 1981 *Harvard Business Review* article "A small business is not a little big business" that small firms should not be assumed to use essentially the same management principles as big firms, only on a smaller scale. What they call resource poverty drives small firms to adopt quite different management approaches in order to sustain strong client relationships and high performance. Partners practising in smaller firms can expect to get more involved in the management of their firm, and they need to make do without the range of support staff and technologies typically available in large firms. As Hermann has observed in his new firm, partners tend to take on far greater levels of responsibility even in areas such as technology or website design, with targeted outside support as required.

Greater involvement in management can be a two-edge sword, however, if the small firm is essentially still in 'start-up mode', lacking effective governance structures and protocols. It can be difficult for lawyers who are used to practising in larger partnerships, where much of the management is efficiently driven by business support services, to tolerate decisions about even routine matters being over-debated. In his early years of his law firm advisory work, Rob advised a mid-sized law firm

whose partners had recently appointed a managing partner for the first time. The partnership was split between one faction wanting the managing partner to establish an executive committee to run the firm, and another that jealously defended their right to be

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involved in any decision and to veto those with which they disagreed. The result, of course, was that the firm's functionality had stalled. The atmosphere within the partnership had become acrimonious. Clients had begun to notice, and to express alarm. It was only after the departure from the partnership and the firm of one of the strongest advocates for the latter position that the partners could re-establish trust and move forward to develop the effective governance systems and structures that they required to develop further.

Hermann describes an almost diametrically opposed experience. On moving to his new firm, he says, his talent and experience was able to unfold naturally. For example, he was able immediately to start working on internationalising the firm's practice, writing articles and arranging (online) speaking engagements on issues affecting international transactions and disputes. He was able to prepare a guide to doing business in Germany, based upon his knowledge amassed over many years, feeling strongly motivated to do so because the document did not need to pass through multiple approvals and delays but was instead quickly published and made available to the market. This fast turnaround between recognising an opportunity and realising it is, Hermann says, one of the things that he particularly enjoys in his new, mid-sized environment.

Client conflicts are likely to be less problematic in a smaller firm, too. In large firms, a new client might need to be referred to another firm because of a conflict in a completely different area of practice, or even for commercial reasons (for instance if the fee falls below the value threshold that the firm considers viable.) Earlier in his career, Hermann practised for over 10 years in the legal advisory practice of what was then the ‘Big Five’ global accounting firms. Conflict issues were then exacerbated by having to avoid clients for whom the firm provided audit services, or where pitches for such work were under way. This precluded lawyers from taking on a lot of interesting legal advisory work that they would otherwise have liked to do.

In smaller firms, partners and indeed lawyers and business services staff at all levels enjoy far broader scope to shape their firm’s brand with their own personality. Smaller firms do not benefit from the level of institutionalised brand that larger firms do. More importance is attributed to the appearance and contribution of each individual partner. Even in just the first few months with his new firm, Hermann’s personal experience has been of an even stronger and more direct correlation between his own actions and how his firm is being perceived by others, than before.

Many of the best small firms compensate for resource poverty by being far more careful in their investment decisions. Illustrating this, Hermann observes his positive surprise about the careful planning regarding investments and the readiness to grow. Growth that would be less noticeable in a large firm can be far more profound in a smaller organisation. At the beginning of May, for instance, his firm opened a new office in Dusseldorf – its fourth. The firm’s partnership grew organically within five months during 2021 by almost one third.

With much of the focus in firm business model development today being on digital transformation, it is fair to ask whether resource poverty extends to technology investments. Of course it does. However, some of the most technologically advanced firms are quite modest in size and the cost of technology is constantly decreasing. Furthermore, mindset and culture are the greatest impediments to digital transformation and larger versus smaller firms address this in different ways. Larger firms, with

their deeper pockets, are able to explore technologies more speculatively and invest in specialists such as data scientists. Smaller firms can be more agile, changing direction more nimbly and perhaps partnering with technology companies that have the digital skills that they require, but lack.

## **Making the move**

The workload might be less onerous and work-life balance more achievable in a smaller firm, although this is not always the case. The important difference is that in a smaller firm high workloads are usually more a matter of personal choice than of firm-imposed targets. Hermann describes his workload at his new firm as fulfilling but immense, but observes that is the result of more concrete goals gathered from past experience being transformed into action points. Rob describes a partner in a mid-sized firm that he advised in the US mid-west some years ago, who had successfully moved his (niche, specialised) practice from a prominent firm in New York City to have a better work-life balance despite a heavy work

**Many of the best small firms compensate for resource poverty by being far more careful in their investment decisions.**

load. That partner described it as wanting “to practice with a view of horses in fields from the window, rather than a busy city street”. He was fortunate in that his practice was highly dependent on him personally. However, many large firms are now offering alternatives to the traditional ‘up-or-out’ career track, introducing more flexible career models aimed at meeting the work-life balance demands of so-called Millennials and, more recently, ‘Gen-Z’ employees. The Covid-19 pandemic

has also focused intense attention on hybrid work practices across businesses of all kinds and sizes, of which work-life balance forms an important part. Blunt assumptions that good work-life balance can only be achieved in smaller firms are therefore probably no longer valid.

For experienced lawyers, with established practices, a move from a large to a smaller firm can be triggered by a number of factors. Where practices are highly profitable, that trigger might be concerns about 'subsidising' less profitable parts of the firm and a view that they could do better in a smaller firm with lower overheads. Or it might be concern about stagnant business practices, bureaucracy or lack of belief in the firm's strategic direction. It has become increasingly common for small, specialised groups to break away from large full-service firms and form high-quality boutiques that focus on their specialisation. Such boutiques can be and frequently are far more profitable for their partners. To avoid difficulties though, and especially if the partners intend taking their teams with them, partners contemplating this should take careful heed of restrictive covenants in the partnership agreements that they have signed. Even if no insurmountable restrictive covenants apply, the likelihood that clients will follow must be carefully assessed. From the clients' perspective, the large law firm's brand and other relationships in place might be more powerful than loyalty to the departing partners.

Partners need to consider how viable their practices will be without such clients. Intuitively, these would include big financial institutions and multinational corporations with whom large firms have deeply institutionalised relationships. However, they can also include smaller clients that are being advised across multiple practices by multiple partners. Clients with whom the departing partner is the only (or the strongest) point of relational contact with the firm, or those with highly complex or specialised needs, might be more likely to follow lawyers switching firms. It is also more reassuring to clients if entire teams move. When Hermann switched firms, a frequent question that he was asked by clients was whether the team that had previously taken responsibility for the services was still going to be available.

## Going global

Another area of received wisdom is that larger firms can project their capabilities internationally in ways that small firms cannot. This might be true in terms of physical presence but, in today's globalised and hyper-connected world, smaller firms that choose to do so can also build significant international practices. This was especially important to Hermann, given that his practice is exceptionally international in nature. Also, not all large firms are international. In the United States, the United Kingdom and (even more so) in China, many large firms have predominately domestic client bases and practices. This phenomenon is driven to a large extent by the size of the domestic legal services market. It is also linked to the structure of some large firms as not all large firms are organised in the same way. In China, for instance, many large firms do have a common brand, but due to the fast growth for the time being are rather structured as associations of law firms in each city where they operate. Some of the 'Verein' global giants, by virtue of the level of independence between firms (which remain independent in a legal sense even though they share a common brand), might also offer significantly less opportunity for working in offices in other countries.

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In today's hyper-globalised world, most large financial institutions and other global businesses have significantly multinational legal needs. For such clients, finding the right legal advisers across the range of markets in which they operate can involve difficult choices. On the one hand, the

global giants offer ‘seamless’ service across all jurisdictions. On the other, the leading local law firms have deeply entrenched local relationships and might have significantly stronger advisory capabilities than the local offices of international firms viewed on their own.

Key to the international firm’s value proposition is the ability to supplement talent in any of their offices with talent from another office. To advise on a major deal in a jurisdiction in which the firm has only a small office, with a relatively rudimentary practice, the international firm can fly in experts from one of the larger offices, or even do the work in that larger office with the local office performing little more than a hand-holding function with the client. On the other hand, the local leaders would likely argue that they have close relationships with the leading premium firms in the United States, United Kingdom or beyond, so can field even better global experts. They might argue that their membership of one or more of the several global law firm networks that exist allows them access through that avenue to talent in other countries. Some of those networks are working hard to enhance collaboration between their member firms precisely as a response to the comprehensively global value proposition offered by the giant firms. Lex Mundi’s ‘Equisphere’ offering is an example of this.

Asked about this in a recent Bloomberg article, Budweiser Asia Pacific’s chief legal and corporate affairs officer Craig Katerberg commented as follows:

*When I think about where we go it’s not international versus local. It’s who understands best that issue and who have we worked with on similar matters in the past that we think would do the best job. Let’s say for example it’s contracts that you’re doing. In a lot of cases an international law firm can do it and they’ll do a really good job and they’ll throw a lot of resources at it but they might miss some of the local issues that are coming up or the industry specific issues. Or you could go with a local law firm that has expertise in the latest areas but it’s kind of missing the more global trends and it wouldn’t be able to throw as many people behind it. (Source: Bloomberg Law).*

Mr Katerberg works with about 100 outside law firms across the Asia Pacific region, in addition to

his in-house team of 129 people. Many of those firms are quite small. It is not size, but who would provide the best advice – legal advice melded with other knowledge to provide the best business solution – that drive decisions about which firms to engage. Clients are becoming increasingly adept at seeking out pockets of excellence across multiple service providers, rather than relying on a single firm or small number of firms to meet all their needs. Large and small law firms are frequently bound to co-exist, especially in smaller jurisdictions, each providing their partners and their clients with something that the other cannot do as easily.

**Key to the international firm’s value proposition is the ability to supplement talent in any of their offices with talent from another office.**

Received wisdom that holds smaller firms tend to be more generalist and lacking in specialisation – so be unable to take on major, complex matters – is also not always true in practice. Hermann’s experience has been of a surprisingly high level of specialisation among the practice groups in his new, mid-sized firm, and also of work referral between partners and collaboration on pitches. A very specific example of a highly specialised practice where a smaller platform can create advantage – and one in which Hermann has been very engaged – is international arbitration. In researching his options, he was advised by members of the international arbitration community that he would be far more likely to receive instructions in a good mid-sized firm, than were he with a large firm.

For both mid- or late-career lawyers planning a move and for their clients, the choice between larger and smaller law firms is therefore a matter involving multiple basic considerations. For clients, the

question revolves primarily around the value proposition – which includes but is not restricted to the lawyer and the firm’s ability to deliver the substantive work required – and the strength of their relationships with the lawyers concerned. The cost element may also have an impact if the client may expect to receive the same quality of service for a more attractive fee. For the lawyers, the right choice involves a balance between the ability to continue to practice profitably, and the different experiences inherent in working in large versus small firms. To reiterate an earlier point, one needs to look well beyond simply scale and geographic reach. Many other factors will make for a new platform for her or his practice that is rewarding, professionally fulfilling and pleasant – or not.

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Hermann Knott is a member of the German and New York Bar. He is a partner at KUNZ Law in the Cologne office, Germany where he heads the firm’s international practice. Hermann specialises in advising on cross-border transactions and international arbitration.



Rob Millard is director of the Cambridge Strategy Group in Cambridge, England and specialises in complex strategy and business model transformation work, mostly but not exclusively with large law firms. His work has included advising on major mergers, digital transformation and governance transition.

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