

# Definitely Mabey

## The Barbarians have passed the Gate

The American Heritage® Dictionary of the English Language, Fourth Edition, defines barbarian:

*"A member of a people considered by those of another nation or group to have a primitive civilization".* The word originated with the Greeks and later, the Romans used the same term to describe anyone who was not Roman.



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I always like to start any presentation off on challenges facing the legal profession with the following quote from an unknown source (or at least to me):

*"Lawyers should not fear the changes going on in the legal profession today, but rather should really fear their inability to change".*

There are any number of existing challenges that "threaten" the legal profession's historical way of life including in no particular order:

- Cyber security
- Technology, specifically artificial intelligence
- Control of clients resting with the 60+ year olds
- Continuous oversupplying of new lawyers
- Millennials
- Commoditization in all areas of law
- Pricing at the partner rather than the firm level
- Decision making methodologies
- Inflexible compensation systems
- History as a hitching and not a guide post

But the one that may best qualify as the Barbarians who have passed through the gates already and will have the greatest impact on mid-size firms are the Accountants.

In an article published in early 2015 in The Economist the "big four" - Deloitte, EY, PwC and KPMG - are reputed to have combined annual revenues of over a \$120 billion (yes billion). To provide some perspective, the largest 100 law firms are supposed to generate a combined \$89 billion in revenue.

So lawyers should not doubt the "barbarians" financial clout.

Now we all know about the failure of Donahue & Partners in Canada when EY acquired a small "full service" firm and made the mistake of attempting to run a law firm like an accounting partnership!

But this gives rise to a real difference between the Barbarians and the genteel legal civilization - "what would you do if you were not afraid of failure?"

Well maybe like EY is reputed to have done since 2013, you would expand EY Legal from delivering legal services in 23 countries to 64!

***"what would you do if you were not afraid of failure?"***

Far be it for one to conjecture that "big law" does not

see itself with a dog in this fight since they appear to have been appeased to date by the smooth assertions of the Barbarians that they are not seeking the "high value work". Rather, they appear to be focused on "process oriented work" as when you look at their other offerings this is their "sweet spot".

And unlike most law firms, the Barbarians see investing in their future as a "no brainer decision" (and not subject to a consensus decision making process) and so they have chinned themselves on the challenge of partners paying taxes on money they will not receive in the short run!

A penetrating glimpse into the obvious but is not much of the commoditization of legal work in fact driven by clients believing that this work is more effectively and efficiently handled by being process driven?

And not to put too fine a point on it but what size firms handle the greatest percentage of commodity "valued" work?

While to varying degrees and with varying emphasis, the Barbarians seem to have narrowed their focus down to the following practice areas (they would suggest all of which complement the services they already provide your clients):

- Immigration
- Labour
- Regulatory compliance
- Contracts
- Due Diligence

To read more on specifics of their efforts I would suggest you visit, for example, the following legal page on the [PwC Site](#).

While independent verification is likely impossible KPMG is reputed to be the largest provider of legal due diligence services in North America. Many can remember when working on due diligence on a hourly rate basis was serious "bread and butter" money for many firms.

And the reaction to date of the threat of the "Barbarians are coming"? In classic law firm style a one word description would be complacency!

It almost seems like firms still believe they are only competing with other law firms and so to the extent there is a response it gravitates towards that old standby - "*what are the other firms doing?*"

For some mid-size firms it is already too late but for those prepared to "swim out and meet this challenge" there exists real opportunity.

What will it take to succeed?

Firms must actually embrace like never before critical aspects of the practice of law (and stop playing lip service) including:

- **Client service** - the experience the client derives from dealing with your firm
- **Technology** - I am not talking about Word or standard apps but real technology like artificial intelligence and automated work flow software
- **Alternative professional complement** - the makeup of the complement delivering the legal services must change
- **Investment in the firm** - incomes in the short term must drop for long term gain and cash / tax differences will increase - live for the long term and not the quarter - seek alternative capitalization models
- **Firm-wide pricing methodology** - the Barbarians are past masters of the fixed fee pricing that clients are increasingly embracing - this can only be done if you have a strong grasp of your firm's profitability

*...the old standby -  
"What are the other  
firms doing?"*

A thought I would leave you with -  
It doesn't have to be a direct competition with the Barbarians as there are an abundance of accounting firms that are competing with these same Barbarians and the enemy of my enemy can be my friend.

Collaboration and cooperation with these firms can provide mid-size law firms with differentiation that may not be available to "big law" when the Barbarians start in on their world!

**Comments or Questions?**

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