

LegalVIEW® Insights

Volume 4: Statistical differences in law firm staffing ratios

ELM Solutions

In 2021, Wolters Kluwer launched a new thought leadership campaign, LegalVIEW Insights, with the aim of using LegalVIEW—the world’s largest body of legal performance data—to benchmark various legal operations trends and best practices. We released three major reports—one tracking changes in outside provider mix, one tracking total legal spend, and one tracking the impact of “megamatters” (legal matters with >\$1M in spend)—and uncovered a number of significant observations. For instance, our data showed a significant drop in total active outside provider count happening in the typical corporate legal department (CLD) during the pandemic, with many CLDs putting relationships with the Am Law second hundred and unranked firms on hold, at least temporarily. It also showed that, despite ever-rising hourly rates, large, typically mature legal departments have not experienced any significant increase in outside counsel spend since at least 2016. Finally, we showed that matters with >\$1M in lifetime spend constitute the majority of legal spend in the typical CLD and are sufficiently volatile that a \$1 increase in megamatter spend virtually guarantees total spend will go up as well.

The fourth installment of our series of reports explores a more ambiguous issue: Law firm staffing patterns. What kind of law firms are top-heavy vs. highly leveraged, and is that good or bad? What sort of staffing patterns can CLDs expect to see in their own overall utilization of outside timekeepers, regardless of firm? If significant changes in partner to associate ratios occur, what is the reason, and why does it matter? There are undoubtedly answers to these questions but, as we shall see, the answer may often depend on context.

The importance of context when interpreting staffing data creates room for competing theories. One theory is that it is good to be normal and, if your CLD has staffing patterns that more or less resemble peers, then you are doing okay. Another theory is the opposite, that in an industry known for its complacency and reluctance to change, you have to be different or better than your peers or you are just part of the problem. In reality, the answer may be you want to stand out in some cases and, in other cases, fall into line with the rest of the industry.

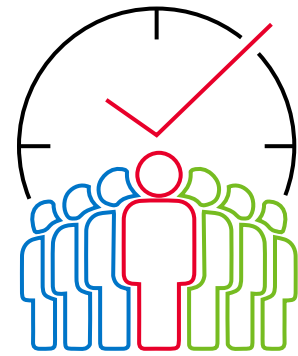
The great variety of approaches and viewpoints this report brings to light will provide ample fodder for discussion.



Nathan Cemenska

**Director, Legal Operations/
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Insight #1: The bigger the law firm, the greater percentage of hours billed by associates—which may or may not be a good thing



In general, the Am Law 50 use associates heavily with fewer partner hours—on average, about 50 percent associate hours and 20-30 percent partner hours. The pattern is reversed as we move further down Am Law, with 40-50 percent of time in the Am Law second hundred billed by partners¹ and only 30-40 percent by associates. This raises various questions about the structure of both sets of firms and the extent to which their billing behavior is dictated by that structure rather than the actual needs of clients.

For the second hundred, why do they have so few associates - or use the ones they do have so sparingly? Do they have difficulty retaining associates long enough to promote them, or is firm leadership delaying promotions of talent that will eventually become necessary to continue the firm? Are partners doing work that associates really ought to be doing, either because there aren't enough associates to go around or because the firm has a higher profit margin on associate-level work when partners with higher billing rates are the ones who perform it? The answers to these questions are beyond the scope of this analysis but point to issues that buyers should look out for and perhaps formally monitor using invoice and other data submitted by firms.

There are questions about larger, more leveraged law firms as well. Theoretically, more associates could be a good thing because it means partners can save their clients money by delegating work to associates with a lower hourly rate. In reality, in the largest firms, many of those associates are charging rates that approach or even exceed partner rates at midsize firms and have a lot less experience,² raising the question of whether there is any value to the client in using young associates at megafirms at all. They are very expensive both to the client and to their firms, which cannot afford to have them sit idle and therefore impose minimum annual billing requirements to ensure they stay busy. These annual requirements apply regardless of fluctuations in demand in a managerial approach that not only incentivizes churn but virtually guarantees it.³ The incentive to churn may even be considered an “open secret,” the absurdity of which everyone understands and even jokes about⁴ but never addresses, instead simply viewing it as part of the culture and an inevitable cost of doing business. ALSPs, internal document review shops, associates from more affordable firms, or any combination of the above could easily do a lot of the work that many of these top-tier associates are taking on and for a fraction of the cost. ALSPs still often charge in the neighborhood of only \$50 per hour for document review, and associates in firms of between 200 and 500 attorneys charge about \$350,⁵ but many CLDs seem to have concluded—despite any credible evidence—that the document review done by associates at megafirms is so much better that it is worth paying almost double or more.

GCs complain that CFOs do not allocate enough budget to legal.⁶ That may be the case, but it is just as easy to argue that the problem isn't insufficient budget but wasteful allocation and paying for a lot of churn. If CLDs had a good way of monitoring staffing

“In reality, in the largest firms, many of those associates are charging rates that approach or even exceed partner rates at midsize firms and have a lot less experience,² raising the question of whether there is any value to the client in using young associates at megafirms at all.”

1. However, note that for many years there has been a trend in many firms to dilute the rights that come with “partnership.” Being a partner used to imply that you were a shareholder in the law firm, but that is no longer necessarily the case. Many partners have rights that are more similar to those of an associate than to a shareholder.

2. According to the 2021 Wolters Kluwer Real Rate Report, the median rate for associates at firms with over 1,000 attorneys exceeds the median rate for partners at firms with 200-500 attorneys. Approximately 80 of the Am Law 200 firms have between 200 and 500 attorneys, including many firms that some of the biggest companies in the world trust with their legal work on a routine basis. See the 2021 Real Rate Report located here: <https://wolters-kluwer-elm-solutions.myshopify.com/collections/frontpage/products/2021-real-rate-report>

3. See Nathan Cemenska, Are Minimum Annual Billing Requirements Causing Spikes in EOY Legal Spend, In-House Ops, October 31, 2021, available at <https://www.inhouseops.com/2021/10/are-minimum-annual-billing-requirements-causing-spikes-in-eoy-legal-spend/> and Nathan Cemenska, Do Minimum Hourly Bill Requirements Lead to Overbilling, Wolters Kluwer ELM Solutions blog, April 27, 2019, available at <https://www.wolterskluwer.com/en/expert-insights/do-minimum-hourly-billing-requirements-lead-to-overbilling>

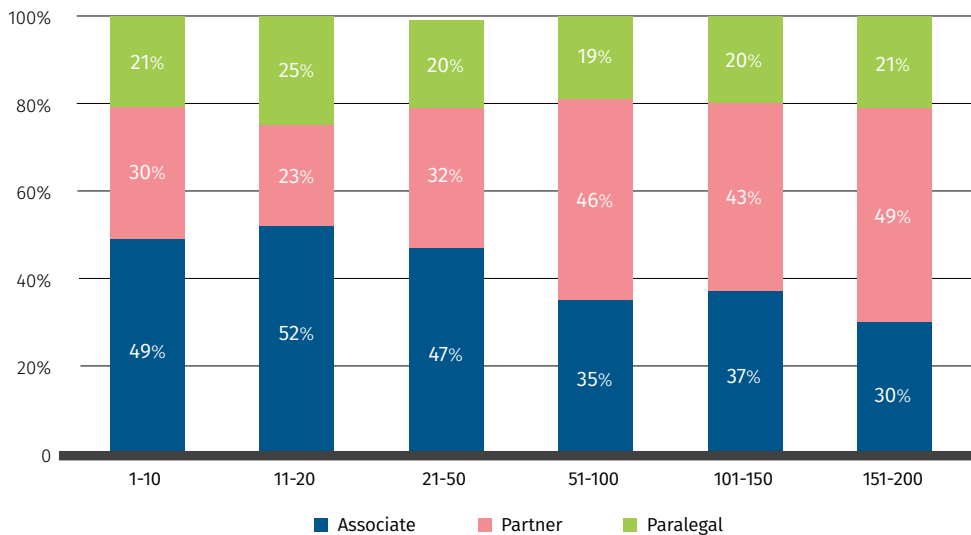
4. See, e.g., “Churn that bill, baby!” email surfaces in fee dispute with DLA Piper,” Martha Neil, ABA Journal, March 25, 2013, available at: https://www.abajournal.com/news/article/sued_by_dla_piper_for_675k_ex-client_discovers_lighthearted_churn_that_bill

5. See Wolters Kluwer 2021 Real Rate report, p. 65.

6. 2021 EY Law Survey, available at: https://www.ey.com/en_gr/law/general-counsel-imperative-barriers-building-blocks

patterns and, in particular, reducing the amount and average hourly cost of churn, a lot of the budgetary pressure they feel might go away, freeing up funds that could be reinvested in technology and process improvement to make sticking to budget easier going forward.

Figure 1: Percentage of total hours billed by each Am Law tier, broken down by timekeeper role (2015-2020)



Unfortunately, the job of “staffing police” is a lot of work and can fall by the wayside in lieu of other priorities. While e-billing data makes it easy to analyze what timekeepers are being used, it doesn’t answer the question of why. Buyers will have to dig deeper, comparing actual utilization to planned utilization, including formal staffing plans submitted on the largest legal matters that represent the bulk of spend. Does the firm have a reasonable explanation of its approach to staffing? How does it compare to similar firms on similar matters? Buyers that don’t do this detective work leave the door wide open to bill churning, and at least a few firms will be more than happy to walk through it at some point in the relationship.

Insight #2: Looking at the overall legal market, staffing ratios are relatively stable year over year. Even during the pandemic, partner-hoarding and other strategic law firm behavior that clients deem not in their best interest either did not happen or was relatively muted for most buyers.

LegalVIEW data shows the percentage of hours billed by associates ranges between 28 and 35 percent in any given year (Figure 2), and the percentage for partners ranges between 33 and 38 percent (Figure 3). Paralegals represent somewhere between 3.5 and 5.5 percent of total hours billed into big corporate clients (Figure 4).

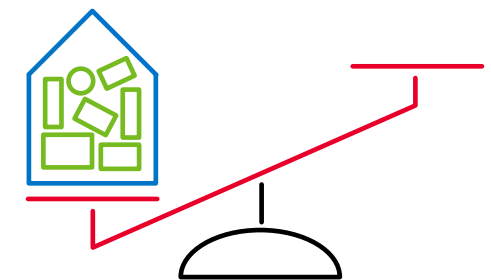
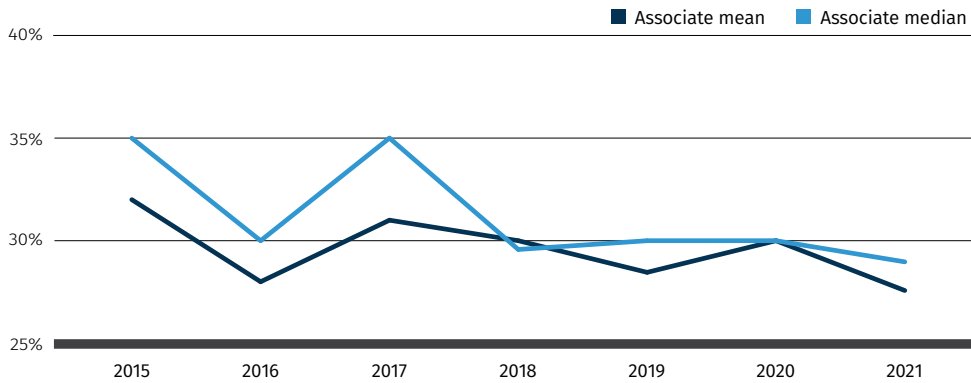
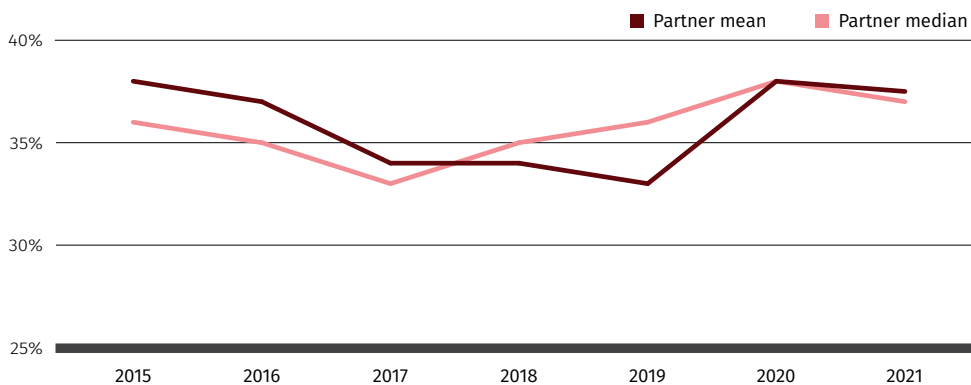
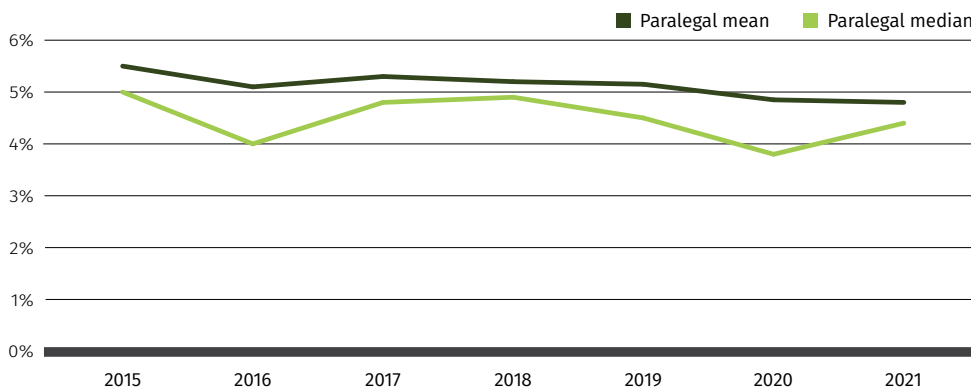


Figure 2: Percentage of total hours billed by associates - 2015-2021 - All law firms, worldwide**Figure 3: Percentage of total hours billed by partners - 2015-2021 - All law firms, worldwide**

“Partner utilization in the ‘average’ CLD did jump from 33% in 2019—the lowest it ever got in the seven-year period we studied—to 38%, the highest, in 2020.”

Figure 4: Percentage of total hours billed by paralegals - 2015-2021 - All law firms, worldwide

During the pandemic, there was some speculation about whether “partner hoarding” would occur—partners doing associate-level work, either because doing the work themselves represented a form of job security or because associates were laid off or furloughed. Indeed, partner utilization in the “average” CLD did jump from 33 percent in 2019—the lowest it ever got in the seven-year period we studied—to 38%, the highest, in 2020. However, that trend was not as dramatic when median rather than mean calculations are used, and the median is less sensitive to outliers. This may indicate that partner hoarding occurred on a market level irrespective of CLD but that the typical CLD experienced little or no partner hoarding. Instead, the partner hoarding could have occurred in a handful of CLDs with higher-than-average exposure to firms that engaged in defensive billing behavior during the pandemic.

Insight #3: Despite the fact that staffing numbers are relatively stable at a market level, there is great variety in overall staffing ratios across various CLDs. This variety raises questions about whether there are lots of different ways to succeed with different staffing ratios or whether CLDs should be concerned if their staffing ratios aren't "normal."

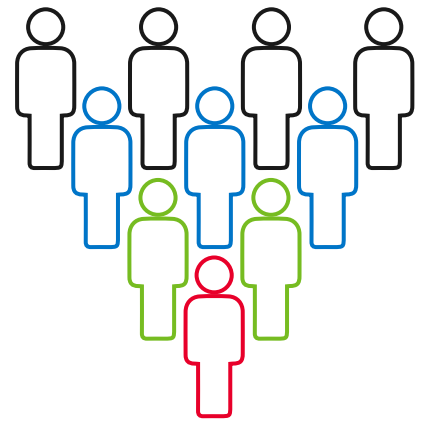
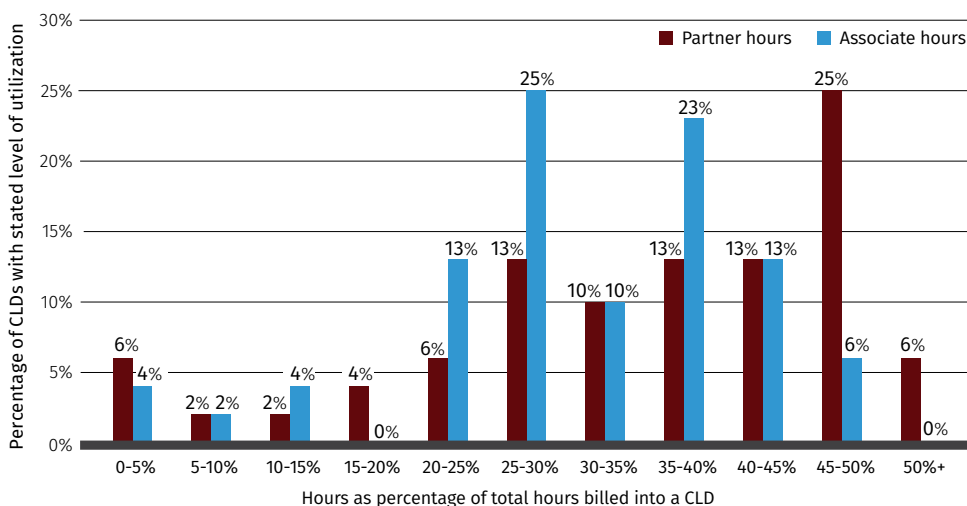


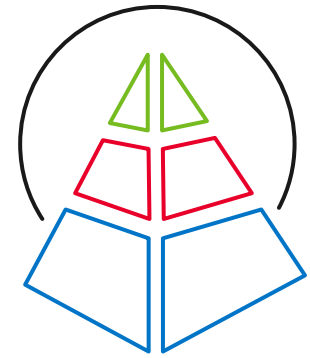
Figure 5 below shows the percentage of total hours billed by law firm associates and partners into a range of CLDs. This information is not broken out by firm—it is the entire body of outside work managed by the CLD, considered as a portfolio, irrespective of firm. On the far right, we see that about six percent of CLDs have very heavy partner utilization—50 percent or more of all hours billed into the CLD are billed by partners. On the left, we see the opposite situation—about six percent of CLDs have very low partner utilization, and partners are billing five percent of hours or fewer. In terms of associates, we see a similarly widespread, with about four percent of CLDs having very low associate utilization of less than five percent of all hours billed, all the way up to six percent of CLDs that have between 45 and 50 percent of all hours coming from associates. The most typical situation is that between 45 and 50 percent of hours are billed by partners, and between 25 and 30 percent of all hours are billed by associates, with the remainder billed by paralegals and “other” timekeepers. This roughly equates to the ratio seen in the typical Am Law 150-200 firm.

Is it good or bad that the typical CLD’s outside timekeeper utilization looks this way? Assuming all of the CLDs in our study are doing a “good enough” job discharging the legal work of their clients, how is it that their approaches can apparently vary so dramatically, with some CLDs using mostly partners and others using hardly any? Are different staffing ratios correlated with better outcomes in certain kinds of work or correlated with cost savings? Further research may reveal the answer to these questions, but on its face, it seems like different CLDs have found different ways to succeed with a vast range of outside timekeeper staffing patterns, and it is hard to generalize about what is best.

Figure 5: How CLDs are using their outside attorneys - Six-year median of outside timekeeper utilization as percentage of total hours billed into a CLD - All firms, worldwide



Insight #4: In addition to a great range in the overall staffing ratios seen in how CLDs use their providers as a portfolio, there is also a lot of range seen in the staffing ratios within different Am Law tiers. It is important for buyers to understand the typical staffing patterns of their providers and ensure that those patterns work for them.



Insight #1 showed that the Am Law 50 tend to bill more hours through associates than partners. The reverse is true for the Am Law second hundred and particularly the Am Law 151-200. The contrast can be seen in Figure 6, which shows that not only do the Am Law 10 typically generate fewer partner hours as a percentage of overall billings (six out of 10 showed partner hours between 30 and 40 percent of total hours) but that they do not stray far even when they go outside of the expected numbers. Am Law 151-200 firms, on the other hand, show a wide range of billing behavior. In fact, 67 percent of firms in this tier generate the majority of their billings through partners, and 16 percent of them generate 80 percent or more through partners.

Detailed charts showing the diversity of staffing patterns—one for associates and one for partners, appear below.

Figure 6: Median percentage of total firm hours billed by partners - A comparison - 2016-2021

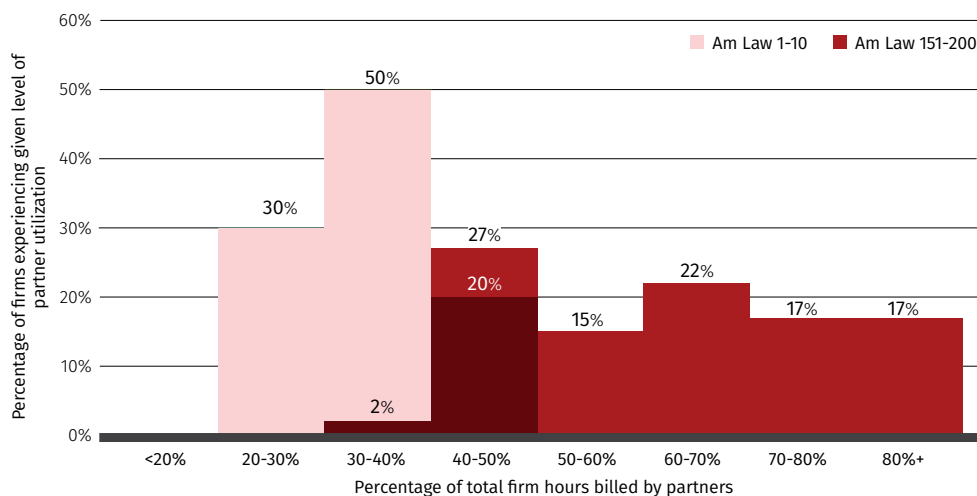


Figure 7: Median percentage of total firm hours billed by associates - A comparison - 2016-2021

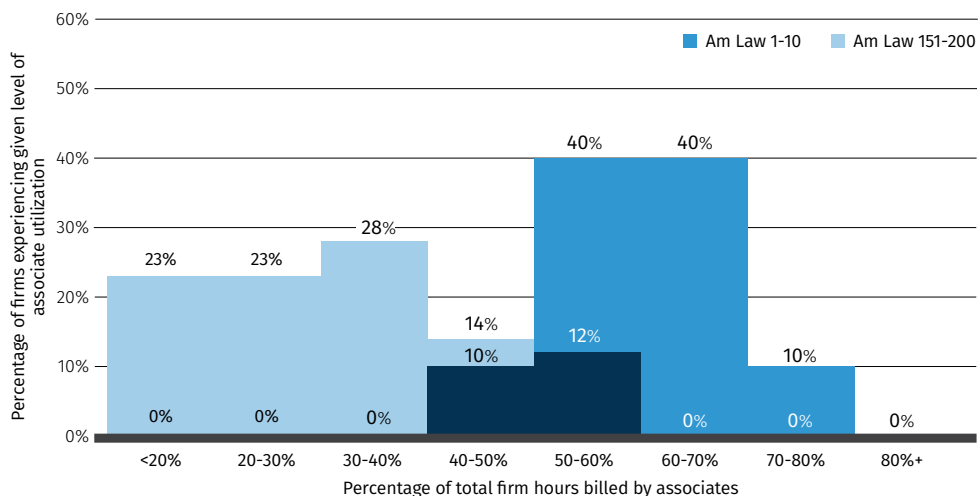


Figure 8: Median percentage of annual firm hours billed by partners by Am Law tier - 2016-2021

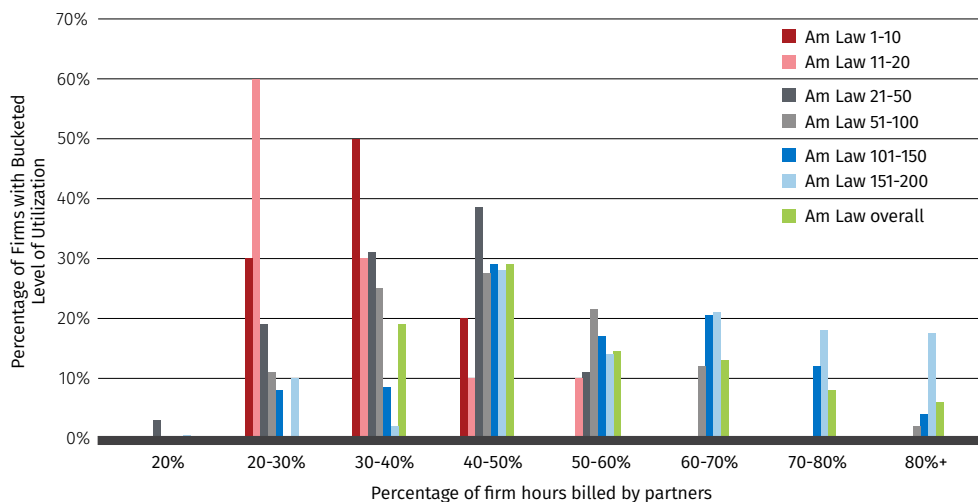
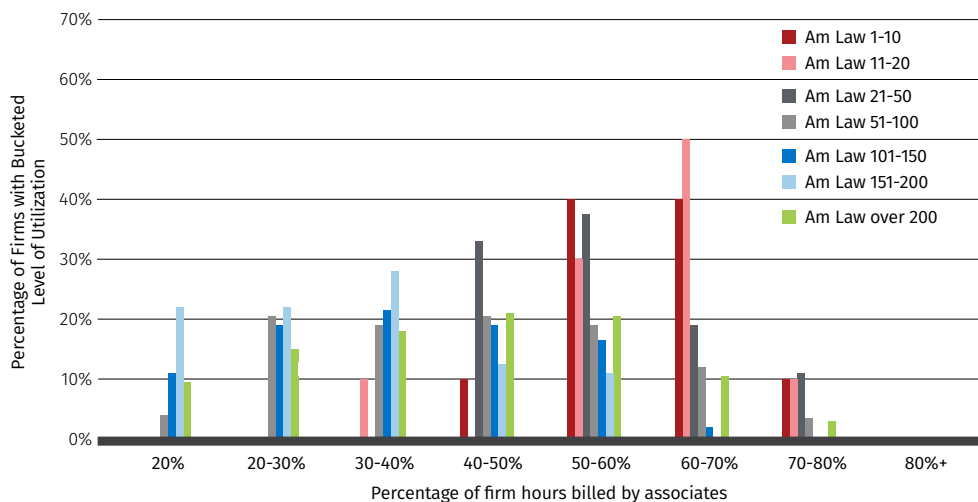


Figure 9: Median percentage of annual firm hours billed by associates by Am Law tier - 2016-2021



Insight #5: Even though staffing ratios are fairly consistent at a market level, our LegalVIEW benchmark data indicate they can vary substantially within individual firms in a YoY sense. Though it is important not to jump to conclusions about the meaning (if any) behind staffing patterns within an individual law firm, in some cases, patterns may indeed be something the client ought to know about—including how it could impact legal spend.

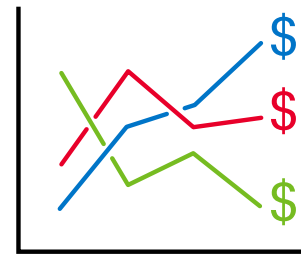
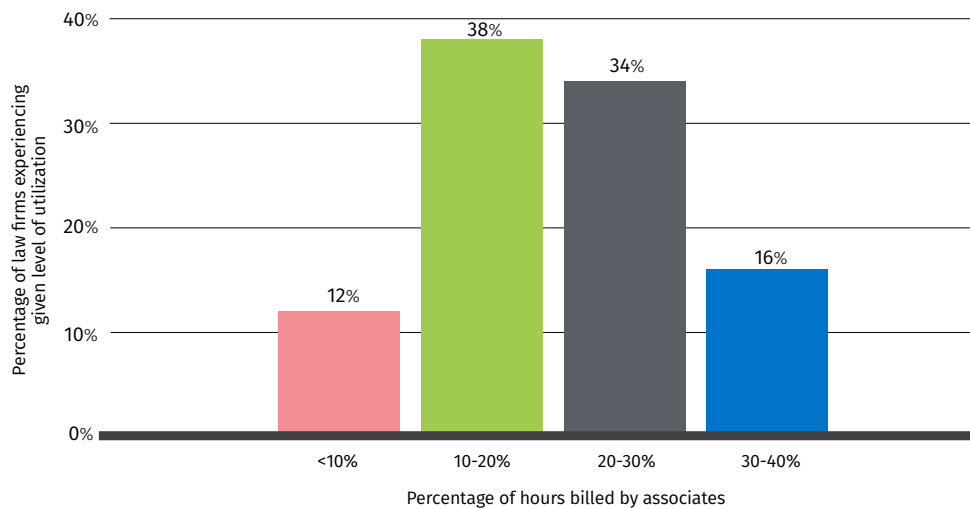


Figure 10 shows the difference in the maximum and minimum number of hours billed by associates in given firm across a six-year period. For instance, if a firm generated 50 percent of its hours through associates in 2015 and then generated 60 percent of its hours through associates in 2020, that would be a 10 percent difference. The typical scenario—with about 38 percent of firms represented—shows a max difference somewhere between 10 and 20 percent, which is substantial but not particularly surprising over a six-year period.

Figure 10: Median percentage of annual firm hours billed by associates by Am Law tier - 2016-2021



In fact, it is probably a good thing for staffing ratios to vary somewhat. Demand for the amount and type of various legal work goes up and down, and it seems reasonable to expect staffing ratios to reflect that volatility. But when staffing varies either very little or somewhat dramatically, it may be indicative of a deeper meaning.

If staffing barely varies at all, even over a protracted period like the six-year one used to generate the above visualization, it raises the question of whether staffing is optimized for client need or for law firm profit. Unless the type of legal work performed by the firm has remained very consistent over a period of years, there should be some variation. If there isn't, the client should investigate further. It may be that the staffing pattern has more to do with keeping people busy than solving legal problems.

Dramatic variations in staffing, on the other hand, may signify changes in the legal work or business changes at the firm or the particular practice groups involved. In terms of legal work, if you see dramatic staffing changes at one of your firms, it could signify that one of your largest matters is entering a new phase that requires legal ops attention. Do you have an up-to-date budget, AFA, work plan, staffing plan, and other controls on that matter so it stays within reasonable tolerances? Has something happened in the case that requires a pivot in legal strategy that will likely have an impact on spend, reserves, or other legal ops considerations?

Staffing variations could also reflect changes in the relationship your firm has with another client and that client's key legal matters. At Wolters Kluwer, we have tracked individual legal matters with over half a billion dollars in external spend—matters big enough to make or break a lot of firms. When a firm brings in (or completes work on) a matter like this, it can affect the entire ecosystem of clients touched by that firm. Any gaps in talent could theoretically be filled by temporary attorneys, paralegals, or ALSPs, but it is probably more likely that firms will staff up internally to boost their own profits. They may also move attorneys onto or off of your matters. A similar scenario happens when a firm brings in a major new client with work that demands a different staffing profile than the rest of the work done by the firm.

Yet another potential explanation for any variance is acquisitions. When a 200-person firm acquires a 40-person firm with a much different leverage model, staffing patterns are going to change going forward. This is both because the firm needs to continue finding work for the new hires but also because the new clients who came over as part of the acquisition may have legal needs that require a different staffing pattern.

Clients with key panel firms that have recently brought in a new mammoth legal matter, new mammoth client, or who have been part of a law firm merger or acquisition should ensure they have strong lines of communication with their firms and that they remain a priority client. Clients that do not pay fairly or only slowly, are difficult and/or bureaucratic and confusing to deal with, who are not explicit about their concerns, or who do not understand what a good client looks like from the law firm end should be worried that top talent may be redirected toward other engagements.

“In terms of legal work, if you see dramatic staffing changes at one of your firms, it could signify that one of your largest matters is entering a new phase that requires legal ops attention.”

Insight #6: Paralegals could be more highly utilized.

While paralegals represent only 1.5 to 2.5 percent of the dollar amount of invoices billed into CLDs, they are used quite heavily in some law firms in some years, including Am Law firms. Figure 11 below looks at all 200 Am Law firms over six years, irrespective of what clients they billed into. In about 23 percent of firms, paralegals accounted for nine percent or more of total hours billed, and in eight percent of years, they accounted for 15+ percent of total hours.

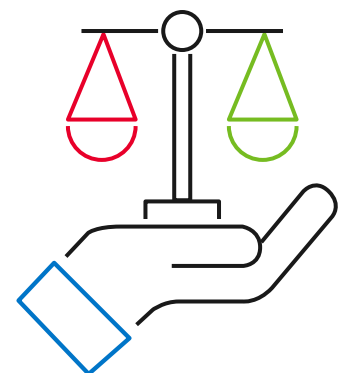
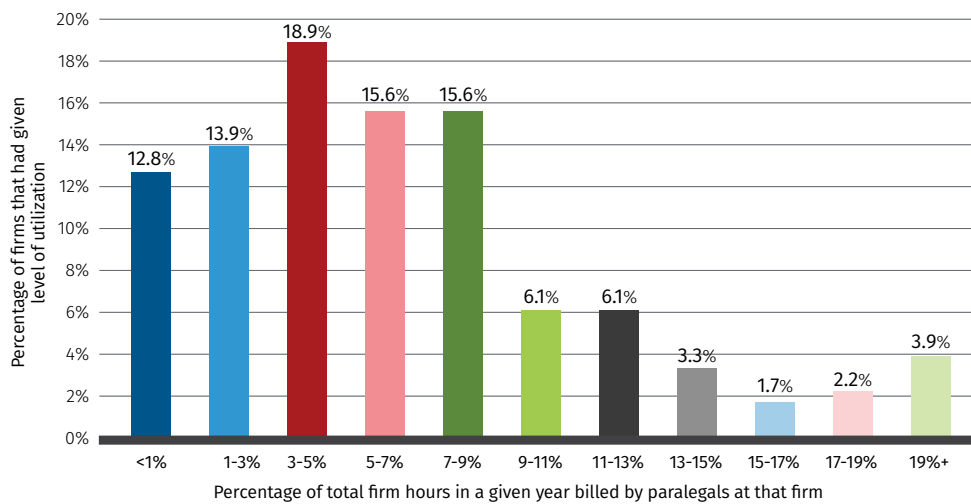


Figure 11: Six-year median paralegal utilization within a single firm - All Am Law firms - 2015-2020



This data suggests that paralegals can be heavily utilized but generally are not. What is the reason for that? Many law firms would claim that they cannot use paralegals more than they already do because they don't have the right skills. This is undoubtedly true in some cases, but many industry observers would question such claims by pointing out that lawyers are a guild, and guilds have an incentive to discount any substitute supplier from outside the guild. Certainly, it is difficult for a law firm that is having almost 20 percent of its hours billed by paralegals—which happens in four percent of Am Law firms—to claim that paralegals can't be trusted to do any real work. And if paralegals are good enough to do real work in those firms, then they are probably good enough to do real work in other firms as well. Like ALSPs, paralegals are substantially more affordable than law firm associates and partners, yet some law firms clearly minimize their use. Perhaps law firms cannot be blamed for that because they are businesses that exist to maximize profit, and having associates and partners do work that paralegals could do increases profits. But CLDs that do not ask their firms to use paralegals when appropriate and do not understand that heavy paralegal utilization is normal in a substantial number of prestigious firms are missing out on huge savings, often without even realizing it.

Going forward, CLDs should consider using legal invoice review as an opportunity to monitor paralegal utilization (and staffing ratios in general) and see whether it falls into line with what they expect. Invoice review often occurs in-house through e-billing tools used by in-house attorneys who may not view monitoring staffing ratios as part of their job and also might not want to disturb their working relationship with outside counsel by complaining about staffing ratios that look inappropriate. For reasons like these, a growing number of CLDs are moving invoice review to third-party invoice review companies that specialize in monitoring invoice activity and finding ways to save money. Many of these companies are actively monitoring staffing for their clients and disputing invoice line items where attorneys are doing paralegal or ministerial work. To the extent that this type of monitoring becomes more common, we could expect increased paralegal utilization in the future.

“CLDs that do not ask their firms to use paralegals when appropriate and do not understand that heavy paralegal utilization is normal in a substantial number of prestigious firms are missing out on huge savings, often without even realizing it.”

Insight #7: Staffing ratios vary widely based on the type of legal matter at issue.

Figure 12 below shows the range of staffing patterns seen in substantial (>100 hours billed over the lifetime of the matter) litigation matters varies across different matter types. One might expect the ratios to be similar since they are all litigation, but in fact, they are not similar at all. For instance, paralegals account for 23 percent of all hours billed in general liability litigation, but only four percent of hours billed in environmental litigation. Partners bill 58 percent of all hours billed in real estate litigation but only 32 percent of hours in corporate litigation. The high partner hours in real estate litigation seem to be taking away from associate hours (where only 34 percent of hours are billed by associates), and the low partner hours happening in corporate litigation seem to be compensated for by associates (where they bill 56 percent of all hours). The numbers for non-litigation matters appear in the final chart and also vary substantially.



Figure 12: Percentage of hours billed by associates vs. partners in a typical “substantial” litigated matter (>100 hours billed) - Broken out by type of litigation

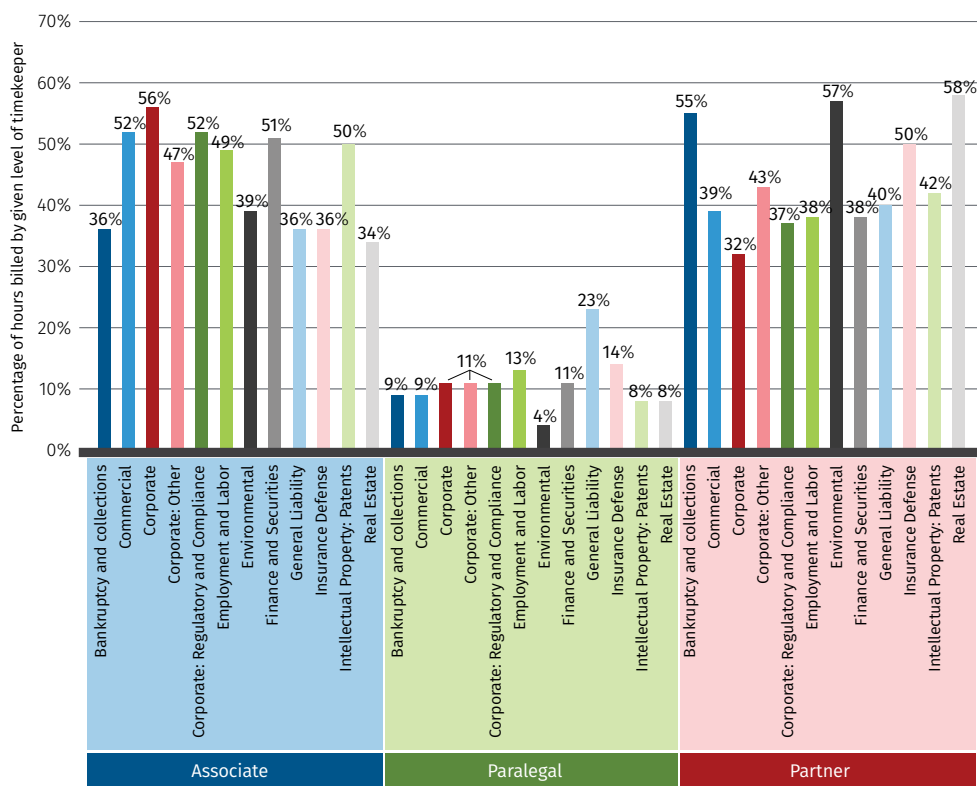
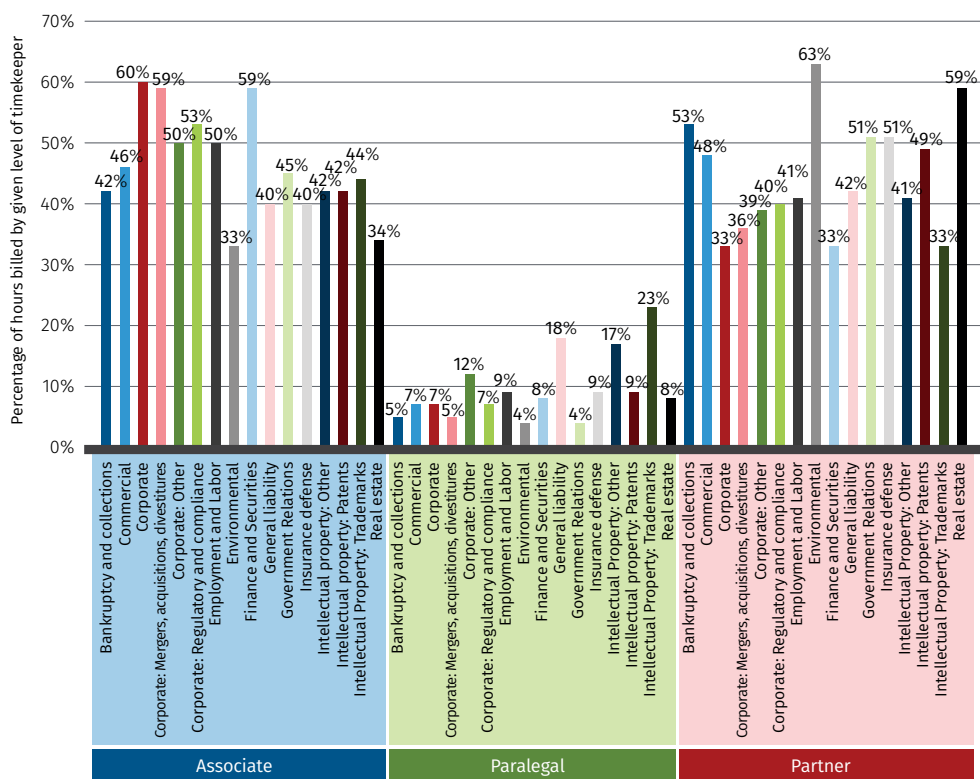


Figure 13: Percentage of hours billed by associates vs. partners in a typical “substantial” non-litigated matter (>100 hours billed) - Broken out by matter type



The variance in staffing patterns raises a number of questions. Are the ratios we see efficient, or do they reflect an industry that does not aim for efficiency? If the patterns seen in an individual corporate law department or law firm differ substantially from these typical patterns, is that a problem? The answer to such questions is beyond the scope of this report, but one thing is for certain: Where the performance of an individual CLD or law firm differs a lot from average, there is a reason. It could be a good reason indicating a more efficient allocation, or it could indicate a less efficient allocation. It could also be due to circumstantial factors having to do with the particular nature of the work in question, which may not be “average” work, causing the staffing patterns to reflect that. Both buyers and sellers of legal services would do well to study these numbers and try to understand the reasons for any variances, but when doing so, it is important to keep an open mind and not jump to conclusions. The issue needs a great deal of further study before anything definitive could be said.

“Where the performance of an individual CLD or law firm differs a lot from average, there is a reason. It could be a good reason indicating a more efficient allocation, or it could indicate a less efficient allocation.”

The LegalVIEW Insights report is based on an analysis on the invoice data in the LegalVIEW database, which includes over \$150 billion in invoice data from medium to enterprise size ELM Solutions clients. The analysis excluded invoice data from insurance clients and is based on when the legal service was provided, not the billing date. Sample size and clients were held constant over the analysis time period to eliminate the risk of changes in the sample skewing the results.

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