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Relative Performance Measures

Building a better productivity metric

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Measuring lawyers' performance: New options for answering an old question

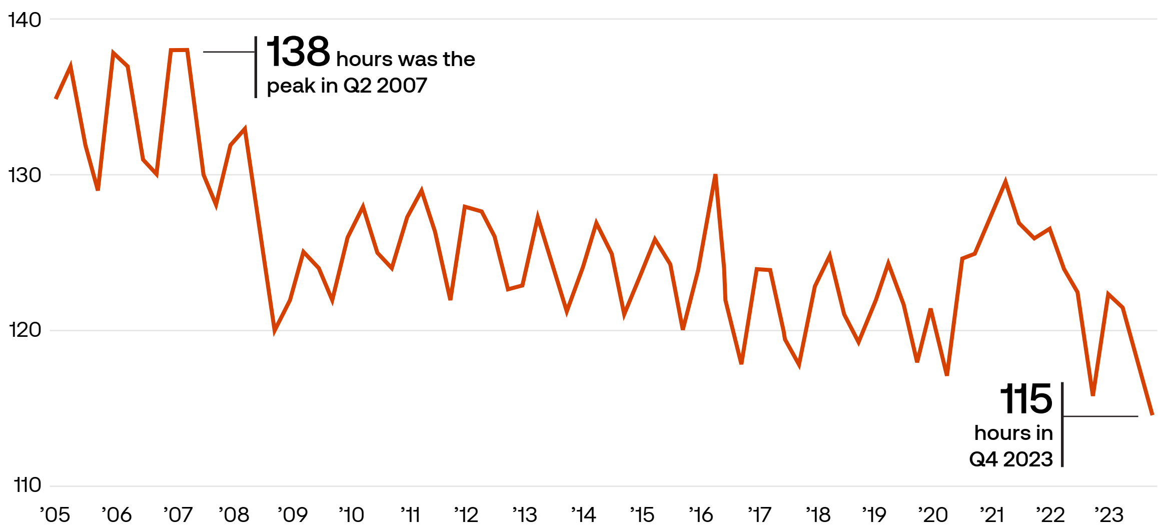
The challenge of measuring and evaluating the contribution of attorneys towards the overall performance of law firms has been, and continues to be, a central topic of discussion in the legal industry. Law firms largely have settled on the *total number of hours billed* as one of the key measures, and despite some criticism that it's a misnomer, this metric has been shorthanded as *productivity*. Even within the Thomson Reuters Institute's own reporting, we've used a separate but related metric that we've called *average daily demand per full-time equivalent* (ADD per FTE), which measures a lawyer's contributions in terms of billable hours reported per lawyer, per working day.[1]

Our annual *State of the US Legal Market* report has for years covered the gradual decline in more traditional measures of lawyer productivity. For example, in 2023, we reported that the average lawyer produced $98,000 less in total fees in 2022, relative to a comparable lawyer in 2007, assuming consistent rates, based solely on the decline in hours-worked per lawyer.[2] In this year's report, we found that each segment of law firm tracked failed to match 2022's performance for ADD per FTE.[3]

FIGURE 1:

Hours worked per lawyer

Hours per month. All segments



Source: Thomson Reuters 2024

1 As background, ADD per FTE became a go-to measurement because of its ability to account for differences in the number of working days in a given month, quarter, or year.

2 *2023 Report on the State of the Legal Market* at 9-10; *available at* https://www.thomsonreuters.com/en-us/posts/legal/state-of-the-legal-market-2023/.

3 See *2024 Report on the State of the US Legal Market* at 12-14; *available at* https://www.thomsonreuters.com/en-us/posts/legal/state-of-the-us-legal-market-2024/.

In January 2024, we also posed a question of how long the common productivity metric of hours per lawyer will matter.[4] Trends over the past decade have shown that law firm profitability is increasingly less tied to productivity; hours worked per lawyer continue to decline while law firm profits have grown year over year. And given the advent of artificial intelligence (AI) — and particularly generative AI (GenAI) — this trend may be poised to accelerate.

The long-term decline in this traditional measure of lawyer productivity, coupled with the potential further disruption brought by GenAI, leads to a question of whether this metric is the best way to measure a lawyer's contribution to their firm going forward. In theory, a lawyer who bills a high number of hours, but with low collections and low overall profits would measure well on the current productivity metric, while a lawyer who completes a high number of tasks quickly on a fixed fee basis could be slighted for poor performance based simply on the fact that the work was completed quickly, even if it was highly lucrative for the firm.

Traditional measures — such as hours per lawyer or ADD per FTE — are limited as both metrics are really measures of *inputs* and not outcomes, and as such, they don't truly speak to bottom-line production. Additionally, both metrics are largely dependent on macro-economic factors and are absolute measures. For example, if the economy is not favorable to transactional work, ADD per FTE for transactional lawyers will suffer. However, while the absolute measurement of hours for a transactional lawyer may have declined, that lawyer's contribution to the firm's financial performance relative to other similarly situated lawyers may remain quite strong.

Clearly, a new way of evaluating lawyers' contributions is needed.

Spinning up the RPM

This paper is intended to introduce a way for law firms to truly shift their thinking about how they measure performance. A key part of that is the introduction of a new metric — or really, a new set of metrics — that we are calling the *relative performance measure* or *RPM*.

RPM is a score that measures a timekeeper's relative performance in generating fees in the firm's time and billing system (fees worked), adjusting for relative ability to collect those fees.

RPM compares the performance of lawyers to their replacement level. That means lawyers who work in the same segment of law firms (Am Law 100, Am Law Second Hundred, or Midsize), practice group, office location, or within the same lawyer-title class (equity partner, non-equity partner, associate) can be compared, either within a single firm or against groups of competing firms. Comparing the relative performance of lawyers provides for a more accurate assessment of performance outside of absolute values and focuses instead on relative outperformance or underperformance. For example, an Am Law 100 associate in New York City working in M&A would not be compared against a non-equity partner working at a Midsize litigation firm in Kansas City, but rather each would be compared against their relative replacement-level competitor.

This relative comparison helps control for differences in metrics across different classes of lawyers, such as rates and hour requirements. For example, the pricing power that an equity partner has in New York City is much different than that of an equity partner in Kansas City; but the pricing power between equity partners in New York City is theoretically less disparate.

4 See Josten, William, *The law firm productivity metric: How long will it matter?* Thomson Reuters Institute, Jan. 22, 2024; *available at* https://www.thomsonreuters.com/en-us/posts/legal/law-firm-productivity-metric/.

However, because these controls are in place, when there are differences in rates or hours between lawyers within the same comparison group, the differences are magnified, allowing us to more accurately identify those lawyers which are demonstrating above- or below-average performance.

RPM is based on an average, or replacement-level, score of 1.00. Any score above 1.00 means the timekeeper, group, office, or firm being compared produces an above-average output relative to peers. For example, an attorney with an RPM score of 1.32 is 32% better at producing relative to peers, while an RPM score of 0.87 would mean the attorney's production is 13% lower, relative to peers.

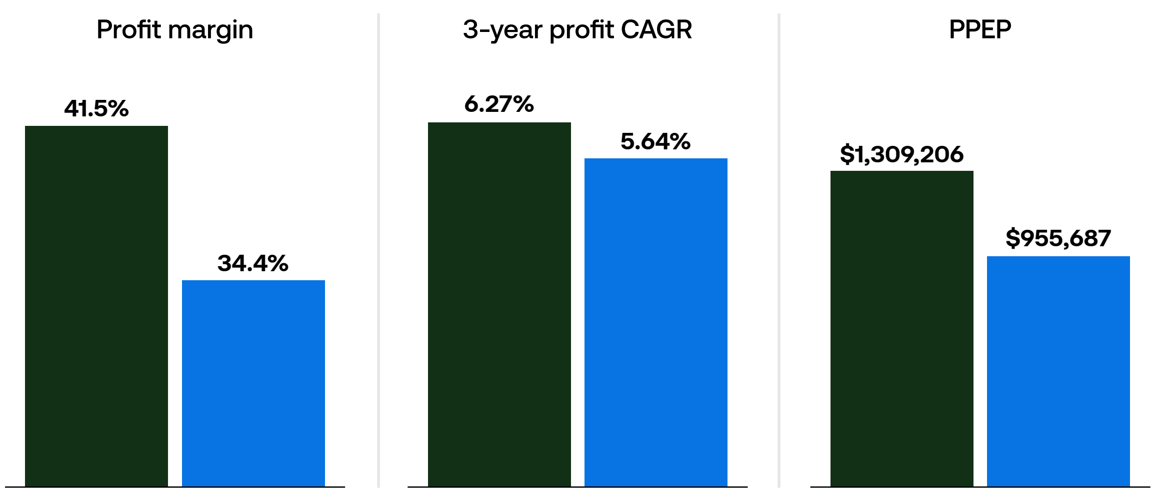
Showing the difference

We do not intend to suggest that high performance on traditional productivity measures bears no relation to firm financial performance. Indeed, if we compare the Top 25% of law firms in terms of ADD per FTE performance, we see a clear advantage for high-performing firms compared to even average firms.

FIGURE 2:

ADD per FTE: Top 25% vs. Bottom 25%

Firm group	Profit margin	3-Year profit CAGR	Profit growth 2023	PPEP
Top 25% ADD per FTE	41.5%	6.3%	0.9%	$1,309,206
Middle 50% ADD per FTE	38.0%	4.7%	6.4%	$1,039,944
Bottom 25% ADD per FTE	34.4%	5.6%	4.3%	$955,687



Source: Thomson Reuters 2024

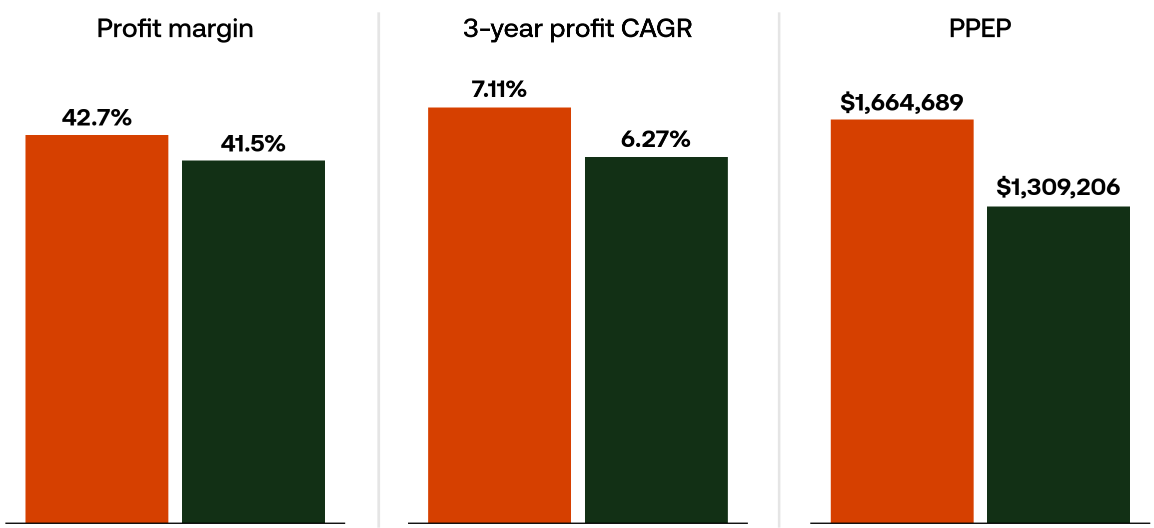
As shown, firms that are in Top 25% of ADD per FTE, or High-ADD per FTE firms, perform much better across a variety of profitability metrics including profit margin, profit compound annual growth rate (CAGR) over 3 years, and profits per equity partner (PPEP). In general, firms with lawyers billing an above-average number of hours per day will reap bottom-line benefits.

However, by adding a financial component to the hours-worked by lawyers, we can get closer to measuring an individual lawyer's economic productivity.

FIGURE 3:

Top 25% RPM vs. Top 25% ADD per FTE

Firm group	Profit margin	3-Year profit CAGR	Profit growth 2023	PPEP
Top 25% RPM	42.7%	7.1%	5.3%	$1,664,689
Top 25% ADD per FTE	41.5%	6.3%	0.9%	$1,309,206



Source: Thomson Reuters 2024

In the above graphic, we see that firms that score in the Top 25% of RPM, or High-RPM firms, far outperform even the High-ADD per FTE firms in terms of profitability. Clearly, High-ADD per FTE firms are not low or average performers; rather, the Top 25% of RPM firms is a group that stands out even from them in terms of profitability. Therefore, the relative success of High-RPM firms compared to High-ADD per FTE firms represents an outperformance among outperformers, and also suggests that RPM has a stronger correlation with profitability compared to hours worked measurements like ADD per FTE.

A peek under the hood

At its base, RPM quantifies how much relative value is created from attorney efforts, focusing on economic output rather than labor input. The calculation itself relies on three key steps:

1. ***Create a comparison for fees worked*** — Find each individual lawyer's fees worked and compare it to the average of their peer lawyer's fees worked to find their relative performance.
2. ***Create a comparison for realization*** — Find each individual lawyer's collected realization and compare it to the average of their peer lawyer's collected realization to find their relative performance.
3. ***Compute the score*** — Adjust the value found in step 1, by the value found in step 2.

FIGURE 4:
Calculating RPM

Metric definitions: Rolling 12-month fees worked: Worked rate x hours worked
Rolling 12-month collection realization: Fees collected/fees worked

Example: *Lawyer ABC*, works in an Am Law 100 firm, in M&A, in Boston, as an associate

STEP 1	STEP 2	STEP 3
Find Relative Fees Worked Performance	Find Relative Collection Realization Performance	Find Relative Performance Measure
=	=	=
3% worse than peers	**6%** better than peers	**1.021** or **2.1%** better than peers

Imagine we want to find the RPM score for Lawyer ABC that works in the Boston office of an Am Law 100 law firm as an M&A associate. We begin with Lawyer ABC's fees worked relative to other Am Law 100 M&A associates. In this comparison, Lawyer ABC underperforms their peer's average by 3%. Measured by traditional productivity metrics, the analysis would stop there, if not before with a simple measure of hours worked. However, with RPM, we move to step 2 in which we find the comparison of the realization of the fees worked by Lawyer ABC relative to their peer lawyers. On this comparison, Lawyer ABC actually outperforms their peers by 6%. Finally, by applying the full analysis, we can see the full picture of Lawyer ABC's comparative performance. While the lawyer initially appeared to underperform, in fact, they ultimately contributed more to the firm's financial performance than their average peer under theoretically similar economic conditions.

This same methodology is not exclusively applicable to individual lawyers, but also can be applied to scores of other legal professionals at myriad levels including office locations, practice groups, or entire firms.

Watching the RPM closely

Having discussed how RPM is calculated, let's turn back to a point we briefly touched on earlier regarding how RPM correlates with profitability. As previously shown, High-RPM firms outperform High-ADD per FTE firms in most key profitability metrics. Right off the bat we can observe that High-RPM firms enjoy greater profit margins and higher PPEP.

Higher PPEP is particularly noteworthy, given that these High-RPM firms come from a place of larger aggregate profits as a group,[5] which could lead to issues with profit scaling. Even still, these firms posted leading profit growth in the past year, which is all the more remarkable given that these firms also have higher baselines with which to contend, as shown by their 3-year profit CAGR. Perhaps most significantly, High-RPM firms posted nearly $350,000 higher PPEP.

At this point, it's worth pausing to more fully explain how we arrived at the population of High-RPM firms. Traditional measures of law firm high performers have started with the legal market as a whole, looking for top performers among the entire population. For example, Am Law rankings are based on firm revenues, and even our own *Dynamic Law Firms* study bases its categorization on the market as a whole — which is why the *Dynamic* population of law firms began to skew towards larger firms as that study progressed because of long-term trends of strong demand and rate growth by larger law firms. We were concerned that a metric like the calculation of High-RPM firms could easily be shaded by the same factors.

In response to this potential behavior, we opted to innovate not only in how we chose to measure law firms, but also in how that measurement is calculated. We started by comparing firms first at the segment level. Law firms were compared to the averages for their respective segment of law firm (Am Law 100, Am Law Second Hundred, and Midsize), making comparisons down to the individual timekeeper level and eventually arriving at the firm's overall score. The Top 25% actually represents the Top 25% of firms from each segment, so each segment has an equal ratio of representation in the overall Top 25% of RPM.

Accordingly, the Top 25% does not skew either in favor of larger firms due to their outsized profits, nor towards Midsize law firms due to their larger proportional representation among total law firms in the market. Maintaining proportional representation of segments in this way allowed us to keep in line with the *relative* portion of RPM as it is calculated for individual timekeepers. This also allowed us to compare groups of firms — such as our High-ADD per FTE firms whose rankings were calculated using the same segment representation — to our High-RPM firms on a like-for-like basis.

Minding the gaps and overlaps

Because a firm's RPM score is reliant on fees worked, which, at least in part, is derived from time worked, there is some overlap between the High-RPM and High-ADD per FTE firms. In fact, a large portion (44%) of our Top 25% RPM firms were also identified as Top 25% ADD per FTE firms. The interesting findings, however, come from the remaining majority that did not overlap.

5 The average aggregate profit for High-RPM firms was $233 million, compared to High-ADD per FTE firms having an average aggregate profit of $178 million.

FIGURE 5:

Overlap between Top 25% RPM and Top 25% ADD per FTE?	Relative fees worked performance	Relative collection realization performance	RPM score
44% Yes	**21.8%** better than their peers	**0.1%** worse than their peers	**19.6%** better than their peers
56% No	**18.7%** better than their peers	**2.0%** better than their peers	**22.6%** better than their peers

Source: Thomson Reuters 2024

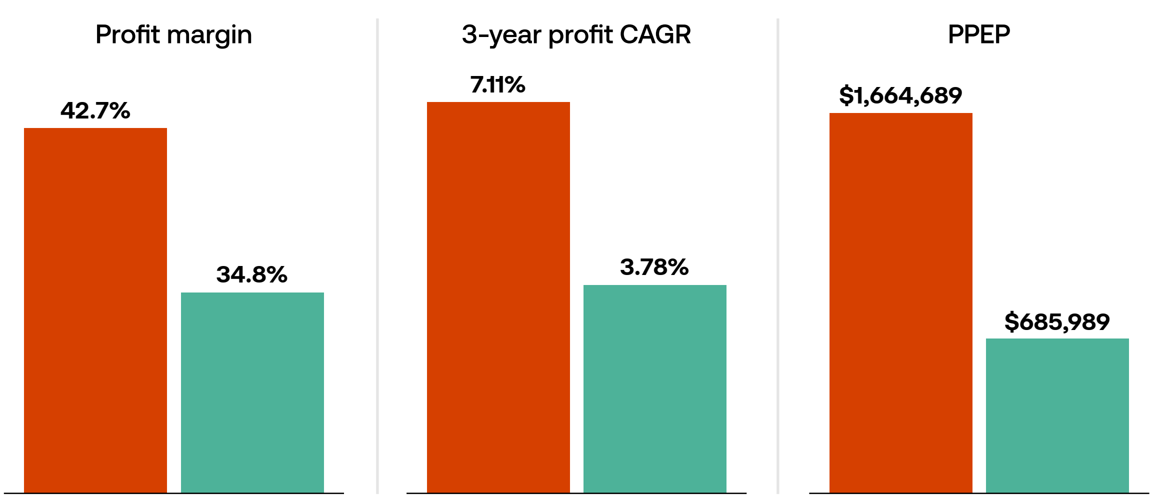
The other 56% of High-RPM firms — which likely would have been considered less productive under more traditional metrics — saw their relative strength come from two key advantages: *i*) they were 18.7% better than their peers at generating fees; and *ii*) they were 2% better at collecting fees relative to their peers. The combination of their outperformance in fees worked and collection realization placed them higher, in terms of RPM score, than the group of High-RPM firms that overlapped with High-ADD per FTE firms. Indeed, the overall RPM score of these outperformers was 22.6% better than their peers.

Herein lies a key advantage to the RPM metric — lawyers, practice groups, office locations, and even entire firms that might previously have gone overlooked can instead be evaluated more comprehensively because the RPM assessment does not rely on absolute measures.

FIGURE 6:

RPM: Top 25% vs. Bottom 25%

Firm group	Profit margin	3-Year profit CAGR	Profit growth 2023	PPEP
Top 25% RPM	42.7%	7.1%	5.3%	$1,664,889
Middle 50% RPM	37.1%	5.4%	3.1%	$983,923
Bottom 25% RPM	34.8%	3.8%	6.3%	$685,989



Source: Thomson Reuters 2024

Not surprisingly, High-RPM firms also enjoy a decided advantage over average or Low-RPM firms in nearly every capacity except the most recent year's profit growth. Even in this measure in which High-RPM firms appear to have a slight *disadvantage* in their 2023 profit growth rate, it is readily apparent that these firms have a much stronger 3-year-CAGR in profit, and thus have harder baselines to contend against.

Something worth noting is that there is a much greater disparity of profit results between High-RPM and Low-RPM firms compared to High-ADD per FTE and Low-ADD per FTE firms. For instance, there is nearly a $1 million difference in PPEP for High- and Low-RPM firms, compared to just a $360,000 difference between High- and Low-ADD per FTE firms. Additionally, there is a nearly 8 percentage point difference in profit margin between High- and Low-RPM firms, compared with a roughly 7 percentage point difference between High- and Low-ADD per FTE firms.

These more disparate profit results suggest that, once again, there is a stronger correlation between RPM and profit, than between hours worked and profit.

Making the case for RPM

Aside from the already demonstrated advantages in terms of identifying strong performance that might otherwise be obscured and the high correlation of RPM to improved profit performance, there are other key reasons to adopt RPM as a means for evaluating lawyers.

Most crucially, RPM is an easier metric to futureproof. Traditional measures of lawyer productivity depend on hours worked, making calculations difficult for tasks done *outside* of billable hour arrangements such as work done on a fixed-fee or value-based basis. By contrast, while the numerator of an RPM calculation is partially derived from hours worked,[6] it is, in effect, a function of accrual-basis revenue. As such, a lawyer can just as easily be measured based on fixed-fee work completed, success fees earned, or contingent fees won, without the need to translate that renumeration into equivalent hours. As firms face a future with broad potential implications for GenAI use in how legal work is performed and billed, firms adopting an RPM-based evaluation system will make the transition more seamlessly.

Moreover, RPM is less affected by macro-economic factors, which may impact certain geographies or practices. Indeed, the absolute impact of those factors matter less under an RPM measurement because the impacted lawyers, practices, or offices would be evaluated based on their relative performance to similarly situated peers.

Let's revisit our earlier hypothetical M&A associate in today's economy in which deal work has been on a downtrend. Under traditional measurements of productivity, we might ascertain that many M&A associates are unproductive compared to established industry benchmarks like the 1,800-hour requirement. However, with RPM, that M&A associate would be compared to other M&A associates in the same market, evaluating their performance relative to peers. An associate who may be a likely target for outplacement on a traditional absolute-hours basis, might actually be an RPM standout. Retaining that lawyer despite a temporary decline in absolute hours could potentially benefit the firm in the long term, once the M&A market returns to vitality. In fact, that High-RPM associate would be expected to outperform relative to their peers and even could be an *all star.*

6 A traditional way to measure fees worked is to take hours-worked multiplied by the agreed-upon rate for the work to arrive at the fees-worked total.

This is obviously only one small hypothetical of how a RPM metric might be utilized by a law firm, so it is worth exploring the question of the measure's broader utility in greater depth.

What can you do with RPM?

Understanding how the RPM metric functions and its advantages is an important starting point, but to fully appreciate its potential strengths, it is helpful to explore a more in-depth use case. For example, let's take a hypothetical sample law firm (Firm 1) and compare it to a variety of peer law firm groups. Our hypothetical firm fares well in fees worked, but struggles in collections. On the whole, however, our firm has the second highest RPM score, and the second highest PPEP performance.

FIGURE 7:

Zooming in with RPM

	Relative fees worked performance	Relative collection realization performance	RPM score	RPM interpretation	PPEP
Peer group A	**24.1%** better	**10.4%** better	**1.390**	**39%** better	$2,843,231
FIRM 1	**34.2%** better	**19.1%** worse	**1.130**	**13%** better	$2,520,802
Peer group B	**9.0%** better	**5.3%** worse	**1.003**	**0.3%** better	$2,022,098
Peer group C	**8.7%** worse	**6.3%** worse	**0.837**	**16.3%** worse	$1,531,218
Peer group D	**19.5%** worse	**2.0%** better	**0.821**	**17.9%** worse	$1,245,580

Source: Thomson Reuters 2024

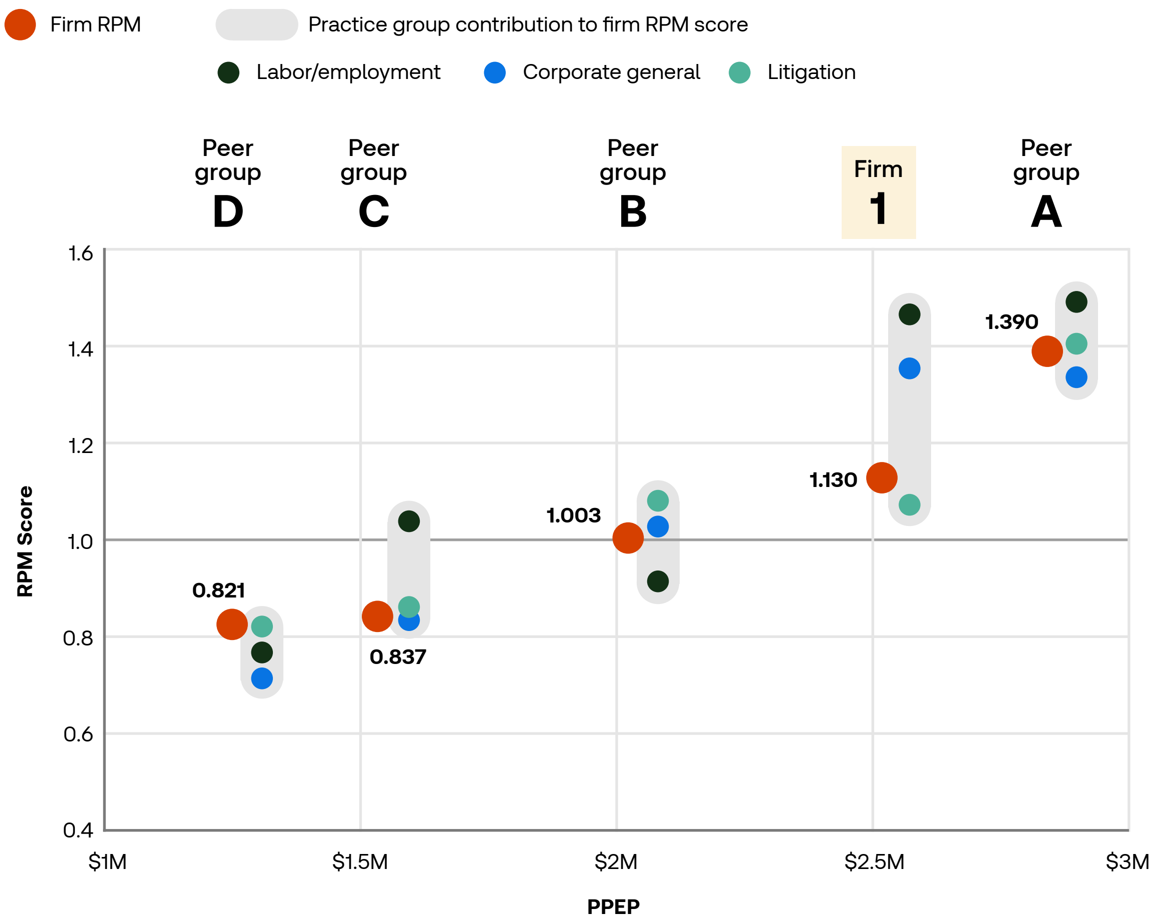
These initial findings show us a few things:

- Firm 1 is 13% better at generating relative financial performance than the average firm.
- This strong relative performance is driven by Firm 1's above-average performance in fees worked, owing to a combination of a high number of hours billed, high rates, or both.
- Collections is a relatively weak spot for Firm 1 compared to its peers; a focus on improving collections would be a quick and easy way to boost RPM scores across the firm.
- From the standpoint of strategic focus, Firm 1 should strive to maintain its strong fees-worked performance but should carefully diagnose whether its collections problems result from high pushback from clients, poor billing hygiene resulting in excessive invoice rejection, or poorly controlled pre-invoice write-down practices by the partners. (The latter is a surprisingly common affliction for law firms, often accounting for two-thirds or more of law firm fee erosion.)

After the initial diagnosis, we can then begin to probe deeper for additional insights. Moving a level down from firm-wide scores, we can examine practice groups to look for relative strengths and weaknesses.

FIGURE 8:

Practice group contribution to firm RPM score



Source: Thomson Reuters 2024

At this level of comparison, new insights emerge.

- Among the selected practices, Firm 1 performs near the top of its peer groups in its labor & employment and corporate practices, and still sits above a 1.0 RPM score for its litigation work.
- In fact, Firm 1 is the top performer among this group of peers for corporate work.
- While Firm 1 is not the highest RPM performer overall, it does perform very well in this area. That alone may warrant further exploration so Firm 1 leaders can understand how to build better relative strength in other practice areas, particularly litigation.

The next level of diagnosis dives deeper into corporate work as a selected practice area to examine individual offices in which that work is performed.

FIGURE 9:

Office contribution to corporate general RPM score

Source: Thomson Reuters 2024

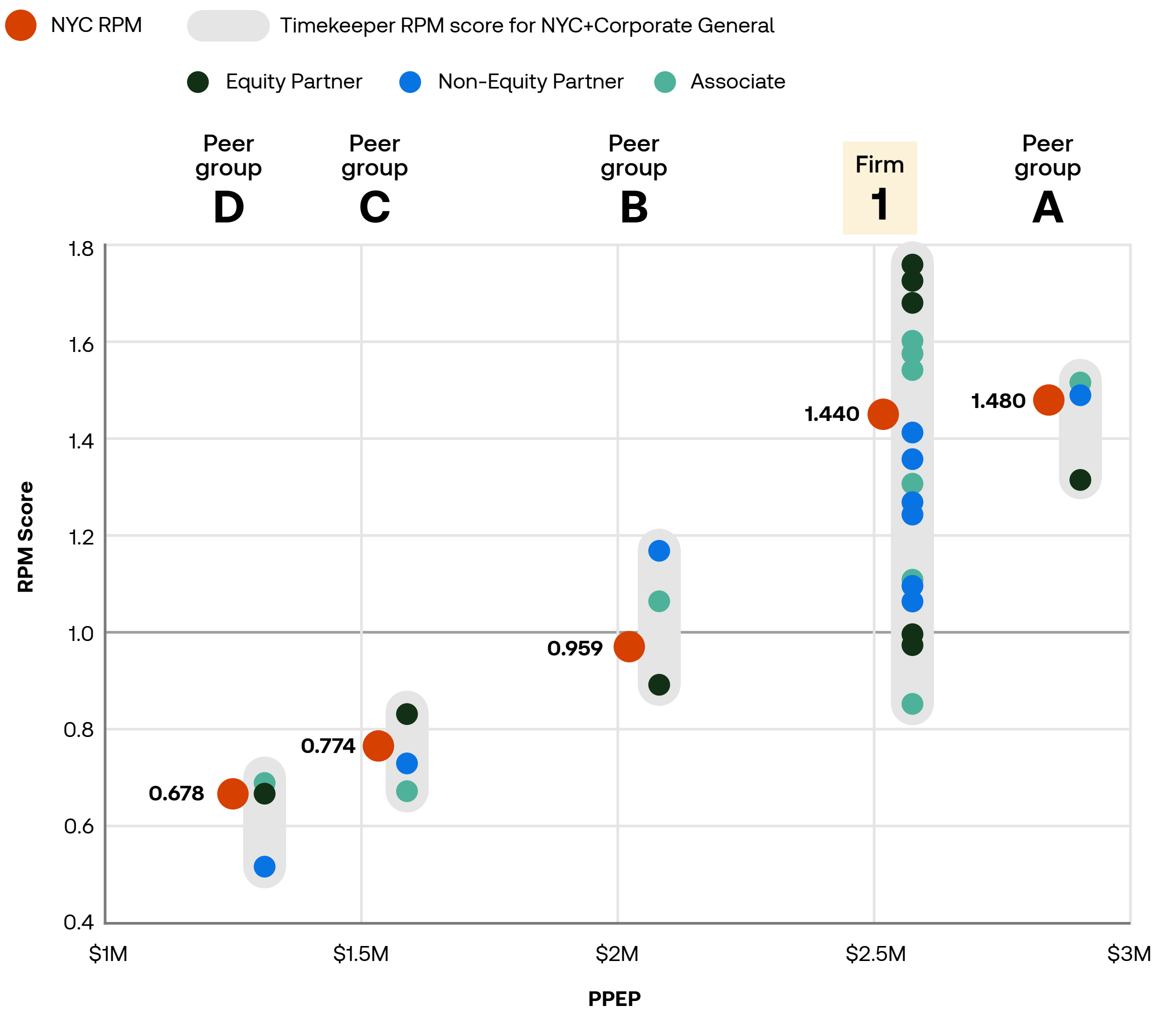
For comparison's sake, we can limit our selection to the three cities in which Firm 1 has the most corporate lawyers to avoid potentially confusing comparisons.

- As expected, Firm 1 is among the leaders for RPM by office location.
- The New York office is the highest RPM performer among Firm 1's locations and likely merits further exploration to see what is behind its relative strength for indications of what or methods or factors other locations could potentially seek to emulate.

Our final level of comparison takes us down to the individual timekeeper level within Firm 1's New York City office.

FIGURE 10:

Timekeeper contribution to corporate general RPM score



Source: Thomson Reuters 2024

Having zoomed in to this granular level, we can see some fascinating, detailed findings that contribute to the office location's score, which again, may point to identifiable trends that could be potentially replicated in Firm 1's other offices and practice areas.

- While Firm 1 isn't the top RPM performer among the selected peer groups, it does show market-leading performance among a number of timekeepers.
- On the whole, Firm 1's equity partners produce quite high RPM results. While this could be a function of higher billable rates, more hours worked, stronger than average collections, or a combination of those factors, those partners can be identified and studied to create potential models for other equity partners.

- Likewise, the associates within the New York corporate practice group tend to be high performers with the majority of them producing an RPM score solidly above 1.0.
- Since these results are narrowed down to timekeeper by office and by practice, we know that there is at least some commonality in matter and billing management so those few associates who are underperforming in RPM can be quickly identified. Then, plans can be put in place to improve their contribution.
- In an interesting comparison, Group A is seeing noticeably softer RPM results from their equity partners compared to Firm 1, relying instead on strong performing associates and non-equity partners to drive its results.
- The data also shows that, should the strong-performing equity partners opt to keep work to themselves, it likely would not hurt Firm 1's overall profitability. However, should they opt to exercise leverage by pushing work down to associates, those associates are well positioned to contribute highly profitable results as well, leaving the firm with several options for staffing matters profitably.

Understanding the limits of RPM

Much the same as the traditional productivity metrics that it is intended to supplant, RPM does have some limitations. First, it is not intended to be a one-size-fits-all metric for attorney evaluation or compensation. Just as traditional productivity metrics operate within a matrix of considerations for evaluating lawyer performance, so too must RPM. It is a valuable metric to be sure, but it requires the context of additional measures by which a law firm wants to evaluate its lawyers to provide the most complete picture of each lawyer. Moreover, each particular law firm is in the best position to apply that full context for lawyer evaluations as the firm will have the best access to both qualitative and quantitative assessment metrics for its lawyers.

Second, like all financially based metrics, there is something of a time lag between when work is completed and when the fees for that work are collected. As a result, the fees-worked and collections components of the RPM calculation do not align perfectly in time. In truth, getting these factors to align is largely a Sisyphean task due to myriad variables, such as when time is entered, how quickly bills are reviewed, whether a particular invoice is accepted or rejected, and client payment terms, to name only a slight few.

This time lag is something with which all analysis of law firm financials must contend; and for RPM, we approached it the same way we do for all reporting done by the Institute on realization, revenue, or profits — the most recent results are examined against appropriate baselines as new data becomes available. We have not ever applied a lag to our data for the purposes of calculating realization figures as we report them for a given quarter. Likewise, no lag is applied to the RPM calculation.

The scope of RPM going forward

This paper is not a prediction of the *death of the billable hour*. Rather, it is an argument that the legal market must prepare for a future in which it must account for financial performance and contribution far beyond just how many hours an individual lawyer may put into the firm's time and billing system.

For the past 15 years, law firm profits and traditional measures of individual lawyer productivity have trended in opposite directions, as we've said. Measurements of lawyer productivity based on hours-worked per lawyer, per day or month no longer adequately capture what that lawyer is doing to drive stronger financial performance for the law firm.

Many observers argue that an AI-driven future is one ripe for greater use of fixed-fee or value-based pricing, especially as more legal tasks become commoditized. Even today, a lawyer who produces high amounts of revenue and stellar realization rates could be viewed as underperforming if they do so too quickly — a bizarre and counter-productive set of incentives to be sure.

Clients want outside counsel who are innovative, efficient, and cost effective. That wish list, however, does not have to come at the expense of law firm profitability — nor should law firms tie themselves in knots trying to fit their new ways of working into the old ways of measuring.

As the way lawyers perform their work continues to evolve today, so too should the way that performance is measured.

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