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'Black Swan' Events Could Motivate More Big Law Firms to Seek PE, Outside Capital

The pandemic and the Trump administration's attack on law firms showed Big Law that economic conditions aren't the only major factors to consider in future-proofing their firms.

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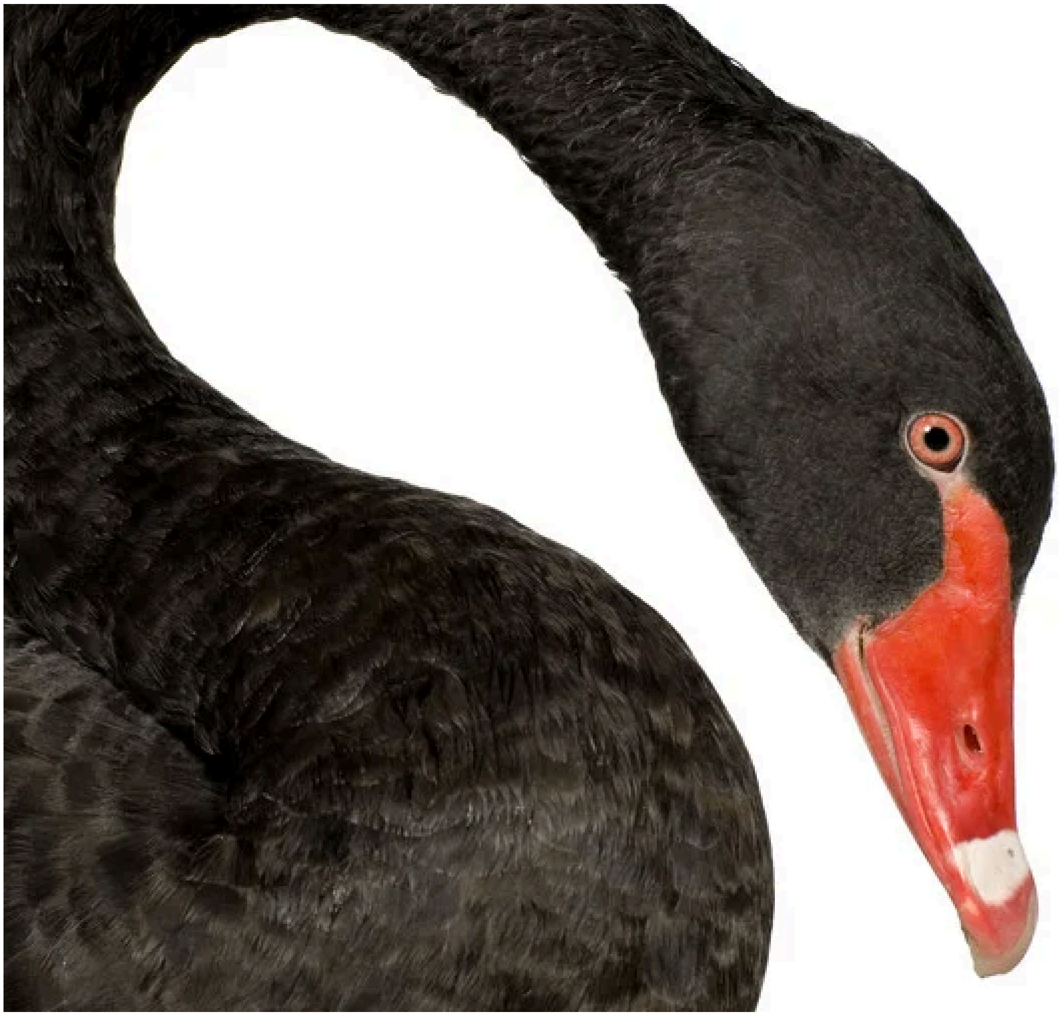

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Growing in scale and profits may be the motivation for some law firms to explore or pursue private equity investment. But some may also be motivated to seek out a larger safety net, after recent events proved that Big Law firms still face vulnerabilities in their business model.

The 2020 pandemic and the Trump administration's actions this year highlight how unforeseen external factors, including so-called black swan events, can cause existential crises for any firm.

McDermott Will & Schulte chair Ira Coleman, speaking to Law.com's Legal Speak podcast on Nov. 18, cited black swan events as some factors behind his firm's early exploration of private equity investment. He walked through his firm's scenario planning during the pandemic period and what their modeling suggested the fallout would be if business was either completely shut down or severely muted that year.

"We did our very detailed scenario planning and modeling," Coleman said. "As sophisticated as a law firm could get during the pandemic. Remembering April, May and June of 2020, we were predicting that our partners might make 40% of what we budgeted out for their compensation."

Big Law made it through, and as we are all aware, had the strongest financial year on record in 2021. But the scare remains.

"What if we had done some deal where we had private capital into the firm, or did some other kind of retention vehicle to really put together a serious war chest," he posited, while also cautioning that his firm's exploration of the PE issue was not even close to a deal.

Law firms are a business where, as Coleman said, "our key assets go down in the elevator every day and leave, and we hope that we treat them well enough that they come back."

Coleman added that he would feel much more comfortable if he could fund the firm for a full year if the worst were to happen. And he's not alone in his thinking.

Law.com reported in September that Kirkland & Ellis, the world's largest firm by gross revenue, has a revolving line of credit that is well in excess of $1 billion, amid a trend of firms seeking large credit lines for safety nets.

But bank credit can only go so far in a long-term crisis.

"I would say it is impossible, under the current construct, for you to raise a year's worth of profits to leave in the bank," Coleman said on the Law.com podcast.

While firm leaders often explore all potential options for future-proofing their firms, Coleman reiterated during the Nov. 18 podcast that the private equity investment question was a preliminary inquiry for his firm at this point. "There is no deal on the table," he said. "We're in learning mode only."

An infusion of private equity could likely ease some concerns of being crisis-ready, some experts say, since outside capital investment could increase net income in any given year by providing funds to pay expenses as an alternative to incurring interest expense with debt financing, said Tom Sharbaugh, a professor of legal practice at Penn State Dickinson School of Law.

At the same time, private equity investment may come with costs.

Some firms, in exploring PE investment, are considering a managed services organization (MSO) structure, which would create a separate business that would sell back-office services to the law firm.

That structure may skirt regulatory rules that prevent nonlawyers in most U.S. jurisdictions from owning and sharing in the profits of a law firm. But the back-office services are still vital to the firm's continued operations, whether as part of the firm or serving as a separate entity.

"With most private equity investments, the investor is investing with a view towards a future liquidity event, such as a sale of the business at a substantial profit—that is highly unlikely for a law firm for a variety of reasons," Sharbaugh wrote in emailed comments.

However, several investors eyeing the legal industry have emphasized to The American Lawyer that MSOs are subject to a different logic, predicting that acquiring interests would work to boost efficiencies and raise the value of the entity, before putting them back on the market—essentially following the standard private equity playbook.

Nonetheless, Sharbaugh is skeptical that large firms will ultimately seek third-party investments as a means of bolstering their annual profits.

Despite the logistical and regulatory challenges, some firms are still welcoming the idea of private investment in legal, including Cohen & Gresser, a midsize New York-based firm that is exploring the potential for outside capital.

The firm confirmed last week that it is in talks with multiple potential investors and that it might consider creating a MSO to enable the firm to accept outside capital.

Executive Orders and Existential Threats

Big Law, like many other industry sectors, was prepared for another unpredictable Trump administration, having witnessed 2017 through 2020. But not to this degree.

"They're not going to be walking around making four and five, six million bucks a year because he's going to put those law firms out of business," said Trump ally Steve Bannon in a televised interview in March 2025. "What we are trying to do is put you out of business and bankrupt you."

The events of 2025, including a series of executive orders, deals and threats by the Equal Employment Opportunity Commission, became another "black swan" event for the legal industry. All paths, whether settling or fighting, came with consequences.

“A black swan event can remind firms of how fragile they are,” Kent Zimmermann, veteran strategic adviser with Zeughauser Group, said in an interview.

Zimmermann said that while he agrees that black swan events can change behavior, he also said the largest driver for changing behavior is increasing competition for talent.

“Some firms are looking at their strategy, while others are looking at the structure of their partnership,” he said. “Others are looking at their approach to compensation or getting more disciplined about managing out underperformers. Some are stretching more to get lateral groups. Some are considering M&A. Increasingly, firms are doing all of the above.”

Zimmermann, when asked about McDermott, said it is smart to know what is out there, but stressed the difference between exploration and execution. “There is a big difference between wanting to learn about something and doing it.”

As for the importance of future-proofing, law firms must take unforeseen future risks seriously, especially amid the backdrop of a seemingly ever-changing regulatory and technological environment, one expert said.

Michele DeStefano, a University of Miami business of law professor, said her best advice is to make sure the right leaders are leading the firm. “Today, leaders need to not only know how to develop business and inspire others, they also need to know how to handle PR, make swift decisions, garner support for decisions, and most importantly, manage change.”

Future-proofing will come in various forms, DeStefano said, and one very important thing for law firm leaders to do now is to identify key stakeholders and find people within the firm who can lead the charge for changes, otherwise firms might remain stuck in a rut.

Others agreed that the pandemic and Trump’s actions this year had an impact on law firm leaders’ psyches. Both events “increased awareness of uncertainty: What can we do in a business context that is growing more uncertain? Manage business, mitigate risk,” said Evan Parker, a law firm data analyst at Parker Analytics. “Here’s where building and finding support is getting new and more creative looks.”