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Trials & TRIBULATIONS

What law firms can do about a decade of decline for legal services

On June 14, from noon to 2 p.m., the Monroe County Bar Association will present a program entitled "The Economic Decline of the Legal Marketplace: What, If Anything, Can Lawyers and Law Firms Do About It?" This ominous title is prompted by the publication of a chilling report by Thomson Reuters in cooperation with the Center for the Study of the Legal Profession at Georgetown Law School. The Report was published in January and in essence concluded that during the past decade there has been a stagnation in demand for legal services. As a result, there has been a noticeable "decline in productivity for most categories of lawyers, growing pressure on rates and a declining profit margin." 2017 Report on the State of the Legal Market, page 3, Thomson Reuters (January 2017).

The program on June 14 will include a presentation by William Josten from Thomson Reuters in Egan, Minnesota, who was one of the authors of the report. The program will also include professionals from the marketing area such as Hilary Guthrie, chief development officer at Harris Beach, along with Rosemary Wahl and Mitchell Laclair from Wahl Media, who will identify steps law firms can take to address the decline.

According to the report from Thomson Reuters, the economic upheaval that started with the subprime mortgage crisis in 2006 and 2007, which led to the worldwide financial crisis in 2008 and beyond, had a direct impact on the legal profession. Corporate clients were under intense pressure to reduce the overall cost of legal services and, as a result, they began taking control over their legal matters and



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their outside law firms to a degree never before seen.

The report concluded that: "This basic change in client attitudes, coupled with a broader shift from a sellers' to a buyers' market for legal services, has resulted over the past decade in fundamental changes to the legal market itself. These changes

are foundational and in all likelihood, largely irreversible. The challenge for law firm leaders today is how best to adjust to these changes so as to respond to the new demands and expectations of their clients while maintaining the long-term health and success of their firms." 2017 Report on the State of the Legal Market, page 2, Thomson Reuters (January 2017).

The Thomson Reuters report was not the only publication that addressed the fundamental changes in the legal profession. Altman Weil, a leading legal consulting firm, also described in great detail in its annual report the transition that has occurred over the past decade and pointed to the key findings of:

- Unreliable demand;
- A surplus of lawyers;
- Inefficient delivery of legal services; and
- Resistance to change by many firms.

2016 Law Firms in Transition, Altman Weil Inc., page 1.

According to the Altman Weil study,

only 38% of law firm leaders believe the demand for services has returned to the pre-recession levels in their law firms. Most firm leaders believe the erosion of overall demand for work performed by their firm is a permanent trend.

The statistics contained in the Thomson Reuters report are quite striking. For example, according to the report, in the past 10 years the average billable hours worked by all lawyers across the market declined from 134 billable hours per month in 2007 to 122 hours through the last part of 2016. Translating that into revenue, there is a reduction in productivity over the last decade of approximately \$67,000 per lawyer per year.

Although the report indicated that law firms have continued to raise their billing rates even at a more modest pace, the realization rates have also been declining. According to the study, during 2016, the average realization rates across firms have been consistently below 83%, which is the lowest level ever recorded.

The report pointed out that before the onset of the recession, law firms had regularly experienced sharp increases in both direct and overhead expenses, but with the recession, expenses fell significantly, especially in 2009 and 2010, which was characterized by massive layoffs of lawyers and administrative staff. Although expenses began to grow again in 2011, they were relatively flat and only increased at a rate of 2-3% from 2013 to present.

It is also evident that during this past decade, the performance of law firms has essentially been driven by one factor —

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rate increases. In essence the revenue growth for law firm services has been essentially flat, productivity has been declining, expenses have been growing, and the only factor positively impacting revenue growth is the ability for firms to raise rates 3% per year.

Fundamental market changes

The most significant of market changes has been the decline in the traditional billable hour pricing in order to accommodate clients who insist on alternative billing arrangements. The market is also trending away from the practices of one law firm handling all aspects of a client's needs and a law firm's normal leveraging of numerous younger associates supporting the well-compensated partners at the top.

We are clearly witnessing a realignment of the compensation of the traditional law firm.

There also appears to be a growing segmentation within the market for law firm services in that there are certain groups of firms at the top that have become known as the super-rich and there are others that are falling by the wayside.

The study further suggests that there are some long-term challenges that all firms are facing and those that fail to adapt to a changing environment will ultimately suffer. Firms that have a clear focus on their core practices and are adaptable to changes in client demands will hopefully survive the challenges.

In conclusion, the report acknowledges the fundamental shifts in the market which include the following:

- The emergence of a buyers' market in which clients demand a greater value for their dollar spent on legal services;
- The demise of traditional billable hour pricing;
- The erosion of traditional law firm franchises;
- Clients who are willing to dis-

tribute work and allocate responsibilities among various firms; and

- The billing segmentation of the market as clients have moved work in-house as well as down market.

The Bar Association's program on June 14 will be devoted to addressing this study with one of the authors, but there will be professionals from the marketing area who will address steps that law firms can take to address these challenges. This program is one that all managing partners, law firm leaders and lawyers in general should attend.

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