

## Firm Guidance

### Will Law Firms Be on Cloud '09?

By Sandy Lechtick

**F**asten your seat belts. This year is going to be another bumpy, rocky ride. While it's not likely there will be any major seismic shocks on the scale of Heller Ehrman and Thelen Reid implosions -- what is certain is that 2009 will be another turbulent, and extremely fluid California legal market.

Having worked in the attorney placement arena for more than two decades, primarily with partners, I must say that few years have been as fluid as the last two. I don't remember when there has been so much activity, so much dislocation, so many new law firms coming to town, so many partners voting with their feet -- and everybody wondering: What does it all mean?



The interaction we've had with firmwide chairmen, local managing partners, practice group leaders and partners evaluating options suggest the following:

#### **Fragility of Law Firms**

Most lawyers were utterly shocked by the fall of Heller Ehrman and Thelen, but especially Heller. (Thelen had been having issues for years, and the Brown Raysman merger was disastrous). Heller, on the other hand, was perceived to be more of an "institution." More partners today recognize the fragility of law firms, how quickly they can come apart at the seams and are looking more closely at the fabric of their own firm. Twenty years ago, few were shocked by the demise of high -flying Finley Kumble or the rapid disintegration of Brobeck Phleger six years ago -- but conservative, 115 year-old Heller Ehrman?

#### **Increased Introspection**

The ever-shifting sands of the legal landscape are impacting partners to be more internally focused and introspective. What we're seeing and obviously will play out in 2009 is that more partners are evaluating the health of their firm, the vision of its leaders, the execution of their management team and of course, profitability. They are also asking themselves: Am I part of the firm's future or its past? What are my long-term growth

objectives here? Am I in no man's land, doing OK but not advancing? The best firms help partners grow their practices.

Collaboration and integration are more than buzz-words. Indeed, most of our placements are partners who see the parade passing them by. It's not as much about money, but opportunity and platform.

### **Talent Realignment**

The biggest beneficiaries to this talent realignment have been and will continue to be the out-of-state firms. In fact, 70 percent of our placements in 2008 were these firms. Many have been looking for a way to enter California for years -- especially L.A., S.F. and the Silicon Valley. Others had been having difficulty adding more than an occasional sole partner to small offices. The huge amount of available talent and shifting sands of the legal market has given out-of-state national firms the opportunity to do in one swell swoop what it would have taken years to accomplish.

Consider the firms that established new offices and greatly benefited from Heller/Thelen and the overall fluidity in California: Atlanta-based King & Spalding and Alston & Bird; Washington, D.C.'s Hogan & Hartson and Covington & Burling; and Virginia-based Hunton & Williams. In addition, Nixon Peabody; Reed Smith; Goodwin Proctor; Winston & Strawn and Arnold & Porter beefed up considerably. Established California powerhouses like Orrick Herrington; O'Melveny and Sheppard Mullin benefited.

The market fallout created terrific buying opportunities for non-California firms and has created momentum for future growth in '09. Most remain bullish about this year's prospects and have ambitious growth objectives. Most take a long view and the recession has not slowed them down.

### **Partners as Free Agents**

Many partners, especially those with strong client relationships and a portable practice, are increasingly evaluating their value in the marketplace and how they stack up with their competitors. In addition, with so many new hungry out-of-state firms setting up shop, has created even more options -- which enhances one's market value -- especially if that lawyer is a partner in a hot or growing practice area. "High-value" partners, "impact" players and/or those with significant books have seen their market value rise significantly in the last four or five years

### **The Gap Will Widen**

The best firms -- well-managed, growing and profitable -- will continue to attract partners from firms that are stagnant, treading water, seeing their profits erode or all of the above. What else is new?

But, the gap is widening. Law firms that do not in the long term grow, especially in key practice areas will die -- sometimes slowly, sometimes quickly. Even a small firm must grow. Smart law firm leaders recognize that with well-planned growth comes momentum -- which, in turn, makes it easier to attract homerun hitters (multi-million-dollar revenue producers) and not just partners hitting singles and doubles.

### **Stealth Layoffs**

More law firms will make cuts -- in partners, associates, support staff and marketing personnel. Some firms are doing it publicly -- more are doing it quietly -- stealth layoffs.

Clearly, many leaders who see jagged rocks are becoming more conservative and also cutting salaries, draws and bonuses. Some law firms are running scared and overreacting. Some are indirectly penalizing their up-and-comers and dinging salaries. On the other hand some law firms -- especially those with little or now debt -- see these economic times as great buying opportunities: Buy low, sell high.

### **Desirability of Groups**

In the quest for growth, more law firms will be more interested in acquiring groups rather than "onezees" and "twozees". While we have a few retained searches in specific practice areas for specific partners, more managing partners than ever urge us to find groups -- especially cohesive teams made up of individuals who have practiced many years together. Groups are easier to perform due-diligence and provide greater name recognition and cache.

### **Hot Practice Areas**

Intellectual property (especially patent litigation); bankruptcy, reorganization and workouts; employment litigation (especially class action wage and hour); securities litigation and white-collar crime; project finance (especially in the renewable and alternative energy arena) are all booming. Transactional work in the corporate and real estate sector has slowed considerably, but this still is one of our key areas of recruitment.

### **Tough Decisions Ahead**

Leaders at the top firms, more than ever, are running their firms as a business. They are not fearful of making tough bottom-line decisions. Heller Ehrman's leaders failed to move quickly enough on cutting excess baggage and when they did, it was too little, too late. But, they also got caught up in the myth that you don't have to hustle -- if you simply do good work. Partners who left did so because they lost confidence in management and the future of their firm. Once the genie is out of the bottle, it's almost impossible to get it back in.

If partners -- especially equity partners -- do not think and act like owners -- generating business, bringing in new clients and helping the firm grow -- they should either get with the program or move on. This may sound harsh, but owners must operate as owners, not employees, and carry their weight. Service partners are becoming more vulnerable, especially in economic downturns. More partners will be de-equitized, and fewer associates will be made partner.

The trends of the last several years have accelerated in the last 1 1/2 years and will continue in 2009. The economy has not caused law firms to fail, but merely deepened fault lines, torn the scab off sores that were lingering and hastened the inevitable -- before the "shit hit the fan".

How law firms respond to the economy and marketplace will decide whether their firm becomes an asterisk in the future. Mismanaged firms or those where simply money was keeping the partners together will disintegrate.

Well-managed firms with a strong fabric of teamwork, mutual respect and partners who think and operate like owners will survive and flourish.

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