

# **Get Down to Business: Strategies to Manage in a Down Economy**

By Edward Poll

Law firms are not immune from the recent economic woes and financial crises experienced by the rest of the economy. The impact, however, is definitely one of degree. At the largest law firms, a few highly publicized layoffs of associates and staff, and several firm dissolutions, have gotten major headlines. Even so, the *pain* being felt by the major firms as institutions is not that bad. Layoffs, delaying the start date of recently hired graduates, or cutting by 20 percent the compensation of partners already earning more than a million dollars a year may be novel to these firms, but is not huge in economic impact.

## **The Real “Hurt”**

The real “hurt” today is being felt by the vast majority of the nation’s one million-plus lawyers who are sole practitioners or members of small firms. Experts say, and the experience of most of us confirms, that the recent Big Law profits-per-partner figures are irrelevant to most legal professionals. The average American lawyer is self-employed or working at a small firm, and makes \$60,000 to \$100,000 a year. In California, by far the most populous state, one-quarter of all lawyers earn \$50,000 a year or less, and the situation is similar in many other states.

These lawyers can ill-afford a large reduction in compensation. They're not at the top of the pack to begin with, and they generally represent individual clients and small businesses. That type of business involves personal injury, family disputes, criminal defense and personal debtor claims, among others, that tend to pay less to begin with. Couple this with the reduction in number of clients and number of matters and the slower payments that are inescapable from recession, and the financial and economic difficulties most lawyers face are substantial.

## **The Response Equation**

The first response by most lawyers in the face of this challenge is to cut expenses. Nondiscretionary spending (payment of debt obligations, utilities, and taxes) is mandatory. Anything else can be considered discretionary spending—*overhead* is the common term. Overhead can be reduced (however painfully) if necessary. But this is only part of the equation. In every business, profits equal revenue minus expenses:  $P = R - E$ . Profits can be increased by raising revenues as well as by cutting expenses. Revenue enhancement needn't mean a higher billing rate, new clients or more time billed— all hard to come by in a down economy. Key revenue enhancing strategies include value billing and greater client responsiveness. They can be combined with expense reductions to create an effective plan for managing in a down economy. It should be noted in this context, however, that expense reductions are limited without affecting the ability of the organization to survive. Increasing revenue, on the other hand, has no limits.

## **Cutting Expenses**

*Office Space:* A firm should consider what it can afford, which features are most critical to operations, and what it is obligated to in the lease. The firm that is not locked into its current space and terms and is considering something less expensive should remember that virtually everything can be negotiated before signing the papers. Tenant improvements and betterments (TIBs) can be made to the space and paid for by the landlord if negotiated. Depending on market conditions, a firm may be able to negotiate one or several months rent-free as an inducement to signing a new lease. Know your market, and check to see what other law firms have done.

*Staffing.* Lawyers and law firms need people, but they need not be full-time hires given today's outsourcing options. Firms can hire virtual assistants— independent paralegals or other administrative specialists who work offsite and online, creating work product to the lawyer's specifications and tailored to the law firm's practice. Using the Internet to outsource transcription, research, and other functions to regions where the use of English is widespread (such as India, the Caribbean, and Ireland) can reduce costs significantly.

*Technology.* New computers, software, and database research services are significant overhead costs. In a down economy firms should look hard at the necessity to buy or update technology because of the high up-front expense. Particularly for new solo practices, substantial spending on new computer hardware and software may simply not be possible. Use a refurbished laptop or PC, rather than a new one, or skip Microsoft Office and Outlook, and go with open source software and a free email management program. Do research at a courthouse or law school library rather than by using an expensive online research service.

*Marketing.* Marketing is essential when the economy slows, but the expense should be managed. A good strategy to reduce marketing overhead is to make a list of five things the firm does to market itself in the order of what brings in the most clients or referrals. The list might encompass, in order: 1) networking, 2) seminars, 3) website, 4) advertising, and 5) a PR firm. Once the ranking is complete, cross the bottom two off the list and put marketing money into the top three performers—the ones with the most bang for the buck and that often involve the kind of personal contact that costs little, but is priceless.

## **Enhancing Revenues**

*Collections.* Don't let billable hours become uncollected cash. Bounced checks, failure to receive timely or full payment, or client insolvency can ultimately bankrupt a law firm. Firms cause their own collection problems by failing to establish collection policies, to explain the policies from the start of an engagement, and to enforce those policies consistently during the engagement. Review accounts receivable once a week, determine which clients are behind on their payments, and give them weekly reminders that they owe money. Don't let collections slip. On average, a bill that is more than 60 days past due can still be collected about 89 percent of the time. However, that drops to a 67 percent likelihood of collection after six months, and to a 45 percent likelihood after one year. Promptly identifying the laggards is essential.

*Discounting.* Firms should resist discounting fees just to get paid, particularly if the client has earlier agreed to pay the full amount in the engagement letter. In such instances, tell clients that unless they honor the agreement that they accepted and signed, the firm will, under Rule 1.16 of the Code, discontinue work for them and seek to enforce collection of all billed fees outstanding. If the client is worth retaining but is having temporary payment problems, offer a discount for everything to date, with the proviso that all subsequent work will be billed and collected according to the fee agreement. Get full acknowledgement of both the discount acceptance and the future adherence to the fee agreement.

*Cash Management.* There are steps that any firm can take to get cash receipts sooner. For example, send bills on the 25th day of each month rather than the 1st day of the next month; because most people pay their bills on or about the 1st, a bill received after that is often not paid until the following month. Another idea is to bill one-fourth of the alphabet each week. That way the firm receives money from one-fourth of all clients weekly, rather than once per month. Technology can also be an ally in getting cash receipts quicker. Strategies include emailing bills to clients as PDF files (which cannot be modified by the recipient), using an electronic invoicing service, or accepting credit card payments.

*Retraining.* Earlier we touched on staff costs as an area for overhead reduction. However, avoid cutting too deeply. It will likely cause a problem when the economy recovers and client demand picks up. Productivity experts estimate that termination costs can equal 30 percent to 50 percent of the annual salary of entry-level employees and up to 400 percent for high-level employees like lawyers, because termination eliminates the investment originally made to recruit and train the person. Consider transferring people to practice areas that are still growing. These are presumably good

lawyers and staff (otherwise they shouldn't have been hired) and should be able to learn new skills. By eliminating both the cost of hiring new lawyers and the risk of failure to meet future demand, retention can enhance revenue.

### **“The Business of Law”®**

Strategies for cutting expenses and enhancing revenue in a down economy are fundamental to “The Business of Law”®— a concept that too many lawyers still resist. The operation of the firm must be understood as a business that depends on billings, collections, profits, and revenue. Running a law firm in a businesslike way improves professionalism. It encourages approaching client service more efficiently—creating and adhering to a budget, stating clear payment and collection terms, providing sufficient details on clients' invoices, and so forth. All law firms must provide value to their clients. And they must be profitable in order to open their doors the following day. The firms whose attorneys understand these two truths will be able to manage in a down economy successfully while ensuring their long-term future and success

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*Ed Poll works with lawyers to increase their profitability and effectiveness. To find out more about increasing revenue and net profits, becoming more effective with clients, and becoming more efficient in the delivery of legal services, contact Ed at (800) 837-5880; [edpoll@lawbiz.com](mailto:edpoll@lawbiz.com); [www.lawbiz.com](http://www.lawbiz.com); and [www.lawbizblog.com](http://www.lawbizblog.com).*