

## Tales of Recession A Primer for New Firms

By **Lottie L. Joiner**

This past year and a half has not been particularly kind to law firms, especially new or small firms that were just getting into the game when the economy took a plunge. For Nicole Meeks Reece, last year was the worst financially since she started her own family law firm in Washington, D.C., four years ago. During the first year, her income had doubled. But business began to slow down last summer and practically ground to a halt after September 11.

For a month, Reece didn't receive any calls. People would stop by her tiny office for advice without retaining her. She had to refund money to one client who could no longer afford her services, though they were very reasonable.

Discouraged after months without a single new client, Reece thought about closing her doors. A large firm had been pursuing her, and now she was seriously thinking of accepting the offer.

"It was stressful," says Reece. "I can't explain how scary it was knowing I wouldn't be getting a pay check."

### Remember: It's a Business

Like Reece, Sharon Easley, founder of Easley & Marquis, a family law practice in Plano, Texas, saw business falling off almost immediately after September 11.

"It was a rough last quarter in terms of new business," remembers Easley. "We went into the new year very concerned. Fortunately we had enough ongoing business that sustained us."

Business is back up for the Easley firm, but to avoid another economic scare, the firm hired a public relations and marketing company to help them increase their exposure to the public and develop a referral base for marketing. The public relations plan includes client events, such as an open house for potential clients, media relations activities in which the PR

firm helped to pitch the lawyers to news outlets as resources for articles, and an increased involvement in legal organizations.

"We didn't want to be here saying we should have done something sooner," says Easley. "But I learned not to panic."

Easley and her firm took advantage of the slow time to work on making the business more efficient. They worked on projects they didn't have time for when they were busy with clients, such as office procedures and mandatory forms.

Says Easley, "As a lawyer, you need to regroup and focus on the business itself."

That concept isn't lost on M. Ellen Carpenter, part of the Boston-based firm Roach & Carpenter. The bankruptcy firm, founded in 1989, was the first all-woman firm in the state of Massachusetts. And though the partners had planned the opening of the firm for a year, they still didn't understand the ins and outs of running a business.

"When we first started the firm, we really didn't realize we were entrepreneurs," says Carpenter. "We underestimated how much time it took to run a business. You have to deal with personnel issues, marketing yourself."

The lawyers at Roach & Carpenter had one administrative staff person for five lawyers. They didn't pay themselves at the beginning. Money was invested only in computers and other essentials. Looking back now, Carpenter admits that they were too cautious, watching every penny. But the partners soon learned to balance caution with a little risk. The smartest move they made, Carpenter says, was getting a line of credit to pay vendors and help with cash flow issues.

### Keep the Cash Flowing

Managing cash flow is absolutely essential to the overall operational success of your business says Julia Hayhoe, senior consultant at Hildebrandt

International. Therefore, law firms should plan cash flow regularly to anticipate problems in advance. It's extremely important that firms stay on top of debt, says Hayhoe.

"Firms have to really understand the impact of arrears," says Hayhoe, who works in the Washington, D.C., office. "Delinquent accounts could impede your ability to pay your own expenses and bills."

To avoid cash flow problems, Hayhoe suggests firms do a monthly

aged receivable report to review who owes outstanding debts. Firms should look for full payment or establish payment plans upfront and in writing. Retainers should be arranged whenever possible.

But sometimes it just comes down to communication, says Hayhoe. The legal bill might have gotten lost in a stack of papers or forgotten.

“A vast majority of people just need a little reminder,” says Hayhoe. “A quick phone call will help you get to the real issues.”

#### Get Your Name Out

An important part of any successful business is its visibility in the community. Claudette Wilson and Vickie Turner of a San Diego-based employment litigation firm say their 10-year-old firm’s success is due in no small part to the partners’ involvement with the community and industry associations. Turner is a member of several organizations, including the American Bar Association and California Association of Minority Counsel. She attends conferences for trade associations and puts on presentations for potential clients.

“You have to be visible,” says Turner. “Get your name known. That’s what keeps your client base growing and strong.”

Be creative, Wilson adds. She suggests writing an article for a local paper or industry magazine in your area of expertise. And continue to build on what you do best. “We work really hard at it,” she says. “We don’t want to rest on our laurels.”

Lawyers Tara Adamski and Sarah Bigger of South Dakota found that rolling up their sleeves and doing work that’s less than glamorous can help a small firm take off. They made themselves available to the courts as public defenders, which brought the criminal lawyers a regular income while they built their own practice.

“Even if [the courts] don’t have

any work, let them know you are willing to help out,” says Adamski. “You get in on the ground floor. The experience is invaluable.”

#### Stick to Your Standards

In growing their practice, Wilson and Turner had developed a plaintiff practice outside of their employee-relations practice. It proved to be a bad move; they couldn’t be all things to all people.

“We realized that wasn’t a good area for us,” says Wilson. “We looked at the economics—how much time we spent and how much we were bringing in from that work. It wasn’t as economically viable.”

“Identify what your true specialty

**Crump:**  
“Resist the temptation to accept every case. Time spent on unprofitable cases could be used for developing a good business.”

is, where you have strength and knowledge,” says Turner. “It’s hard to be a jack-of-all-trades.”

But when times get hard, firms, particularly young ones, often take on bad cases when they aren’t getting new clients.

“When you have a set of rules, don’t change your rules because times are a little tough,” advises Sharon Easley. “Be in a position where you can weather a storm. Those cases will get you in trouble.”

Karin Crump of Dallas learned that lesson the hard way. A solo practitioner for two years, she wishes she had been more selective about the cases she took on. Now the bankruptcy lawyer has a network of lawyers she refers cases to when cases are out of her area of expertise. In ad-

dition to allowing her to focus on what she does best, the network of lawyers serves as a source of referrals for her own business.

“A temptation is to accept every case,” says Crump. “You have to resist that temptation. What happens is that you spend so much time, so much energy on cases not profitable to you or your business when you could spend time developing a really good business.”

Another temptation in tough times is to offer discount rates. But firms should resist, says Hayhoe. “You need to understand the value of your work, your internal economics,” says Hayhoe. “What does it cost you to do that hour of work?”

Instead of offering discount rates to fill down time, use the time to find better clients, take CLE, or improve relationships with existing clients.

Lawyer Jai Bonner of Baltimore, after opening her criminal and family law practice six years ago, found herself locked into cases where clients could pay only a fraction of the costs. She soon realized that she couldn’t take anyone who came in the door. Today, she almost always insists on a retainer upfront.

#### Outsource as Needed

Outsourcing helps a solo firm operate like a larger one. Pennsylvania lawyer Kay Larkin has practiced law for more than three decades. She does litigation for small medical practices and several colleges, along with some commercial litigation. She saves money by working from a home office and contracting with several lawyers who do legal research.

“They act essentially as associates,” says Larkin. “I use them on an as-needed basis.”

Larkin also has a clerical service, bookkeeper, and someone who comes in to do filing. To do her work well, she needs only a computer, fax machine, and telephone. Anything else, Larkin believes, is just extra.

"No one is going to hire you because of the type of furniture you have," Larkin says. "You have to shape your career to fit your life and not your life to fit your career."

For Larkin, retaining clients is a matter of nurturing and constant contact. "It involves being very aware of what their needs are and what they're thinking about over the next few years."

#### A New Day

Despite her financial woes, Reece decided to turn down the job at the large firm and weather the economic storm.

"I like the independence, the

freedom," says Reece. "I like choosing the clients I wanted to deal with. So, even if I made less money, I still wanted to work for myself."

Fortunately, things have rebounded for Reece, and she has more business than she can handle. She now has a line of credit she uses sparingly, something that she had been hesitant to do before. She has cut back on small claims matters or cases where she doesn't have enough time to prepare to do a really good job.

"I did a lot of reflecting on how I could make clients happier," she says. "I found ways I could improve. I had a lot of time to think about them."

Today Reece does more listening

and tries to return all clients' calls within 24 hours. She communicates more with her clients about their cases and explains each step of the legal process in writing. She has hired a part-time secretary to help her with administrative work.

Reece thinks about how, less than a year ago, she was ready to close her doors. She still doesn't know how she got through that difficult time, but it taught her invaluable lessons. "Every year isn't going to be perfect," Reece says, "so don't give up!"

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*Lottie L. Joiner is a freelance writer in Alexandria, Virginia.*

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## NOMINEES FOR THE BENCH *(Continued from page 11)*

late court reversed, describing her ruling "a nullification of an important part of California anti-SLAPP legislation." She also has come under fire by NARAL for advocating the outright reversal of *Roe* in a government brief she co-authored in *Thornburgh v. American College of Obstetricians and Gynecologists*. While in private practice, she wrote an amicus brief on behalf of the American Academy of Medical Ethics in which she argued that prohibiting doctors who receive federal funds from discussing abortion did not violate First Amendment guarantees of free speech.

#### The Role of Ideology

Despite a campaign promise to deliver strict constructionist judges, the White House insists its nominees are not marching in lockstep. According to White House spokesperson Mercy Viana:

"President Bush seeks men and women who meet the highest standards of legal training, temperament, and judgment. These are highly qualified, diverse individuals who bring experience and skills to the bench. The president is committed to nominating individuals with a diversity of perspectives and ideas."

That in itself seems to acknowledge that ideology matters, but many conservatives insist ideological considerations have no place in selecting qualified judges. By instituting an "ideological litmus test," the Senate will force nominees to "give a political IOU as the price for confirmation," according to John Nowacki, director of legal policy at the Free Congress Foundation, a conservative think tank. "When you politicize a judiciary, you compromise its independence," he says.

Not only is evaluation of ideology improper, it's also impossible, argues Barbara Comstock, director of public affairs for the Justice Department. "One hundred senators would have to guess and agree on how each nominee would vote on every conceivable case that might come before them in order to maintain the current 'balance.'"

If that's so, one would expect the Senate Republicans to have cast a blind eye to the ideologies of Clinton's judicial nominees. Not so: Morrow was termed a "liberal activist" by then Sen. John Ashcroft (R-Mo.), who was instrumental in delaying her vote for confirmation. Sonia Sotomayor, elevated to the Second

Circuit after 16 months of waiting, was described by Senate opponents as "an advocate of radical change."

Instead of pretending that ideology is an illegitimate concern, the Senate needs to come clean, said Sen. Charles Schumer (D-N.Y.). "Legitimate considerations of ideological beliefs seem to have been driven underground. It's not that we don't consider ideology; we just don't talk about it openly," he explained. He urged the Senate to own up to the significant yet behind-the-scenes role ideology plays in the confirmation process.

Frustrated conservatives and defensive liberals can agree on one thing, however: The presence of women on the federal bench is moving beyond tokenism and into numbers commensurate with their participation in the legal profession.

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*Stephanie Goldberg is a freelance writer in Chicago and a member of the Perspectives editorial board. Jessica DuLong is a freelance writer in Brooklyn, New York.*