Introduction

Law firms fail. Big law firms fail. Old law firms fail. Powerful, prestigious, and terribly influential law firms, fail. Over the years, time and again, the legal market has proven to be a cruel and ruthless tournament. Loyalty? Not a trace. Margin for error? Slight! Like the bloodthirsty talons of evolution itself, the ebb and flow of the legal seas have leveled the unready, unaware, or just uneven.

Play along with me for a moment. There you are in your fifteenth year as partner, pulling in just over $650K. It was a hard year. You billed a lot. But all things being equal, it wasn't too bad. Sure, you've seen some of your partners moving to their versions of a greener pasture, but that's them, that's their thing; you can't see why they were so antsy to get out, but c'est la vie.

Soon enough, though, some of the more senior guys seem to be quieter than usual and now that you're thinking about it, there have been a few more closed-door meetings recently. Oh, and let's not forget that along with the head of your Private Equity group, three partners and seven associates left last month. There have been rumors that things at your firm were a bit shaky, but you made $650K last year, how bad could it be? Well, as it turns out, pretty bad.

Days go by and people get more and more anxious and quiet and soon enough, in a firm-wide meeting, your managing partner gently but firmly encourages everyone to begin looking for new professional homes. Without having a book of business to cushion the fall, you've been (seemingly) blindsided and dumped into a market that is not only book-hungry, but is also fully saturated with your colleagues—i.e., your competition.

Between 2000 and 2012, the nation's average partner-level lateral movement has been in force at 2,436 partners per annum. If you subtract the anomaly of 2010 (which was a paltry 2,014), you get an average of 2,471 partners per annum. With approximately 48,000 Partners in the NLJ200, this represents approximately 5 percent of the partner population—every year—moving to another firm. This is a lot of partners; the lateral market is a healthy one. Add to the melee all of your newly freed colleagues and you get a low probability that you'll find a home anytime soon.

Yeah, but your firm won't go under, will it? After all, collapsing firms are the exception to the rule, aren't they? Well, technically yes, they are the exception. But is the possibility small enough to just be eschewed away? Lawshucks.com's *BigLaw Deadpool* lists thirty-one major firm collapses; many of them were from the Am Law 100: Altheimer & Gray (2003), Arter & Hadden (2003), Bogle & Gates (1999), Brobeck Phleger & Harrison (2003), Coudert Brothers (2006), Dewey & LeBoeuf (2012), Donovan, Leisure, Newton & Irvine (1998), Finley Kumble (1968), Gaston & Snow (1991), Graham & James (2000), Heller Ehrman (2008), Howrey (2011), Jenkens & Gilchrist (2007), Johnson & Swanson (1994), Keck, Mahin & Cate (1997), Lord, Day & Lord (1994), Mudge Rose Guthrie Alexander & Ferdon (1995), Pennie & Edmonds (2003), Pettit & Martin (1995), Shea & Gould (1994), Testa Hurwitz (2005), Thacher Proffitt & Wood (2009), Thelen (2008), Clark, Thomas & Winters (2011), Dreier LLP (2009), Herrick & Smith (1986), Hill & Barlow (2003), Isham Lincoln & Beale (1988), Myerson & Kuhn (1990), Wolf Block (2009), and Yoss (2011).

In 2008, Hildebrandt (HBR) Consulting conducted a study of eighty law firms (of all sizes) that failed in the time span of 1998–2004 (only). And though there certainly is overlap between the two outlets, a combination of the two sources represents a fair number of firms that ultimately met their demise. But when there are thousands of law firms floating around in the ether, why should we even concern ourselves with small numbers like these? Well, for three reasons, I say:

i. Most of the fallen are major firms. In fact, the smallest of the forty-two firms that I studied while writing this book had at least fifty attorneys. Thousands and thousands of lives were affected by the low and sweeping hand of the legal dissolution gods.
ii. These firms weren't handling penny-ante DWI or shoplifting cases. Due to the size, scope, prestige, and overall horsepower of these firms, major and economically-impactful clients were affected as well.

iii. If there is one thing I am convinced of after writing this book, it is that this trend will continue unless overhauls are made to the firms that constitute today's major legal markets.

Shaking corporate America like an earthquake, a collapse on the scale of an Am Law 100 firm is devastating, sexy, scary, and exhilarating, all at the same time. If you don't mind the cliché, this is a train wreck that you can't take your eyes off of. Is any one of these collapses comparable to that of the World Trade Center's? No. But are there market-level aftershocks, nevertheless? Certainly. And the media loves it! Sinking their teeth into the gossip and information seepage like a ripe apple, the leaders of these firms are cast into the spotlight to bathe in their fifteen minutes of infamy.

Let's understand each other: I'm not completely void of compassion. My heart does go out to the top of the legal food chain. It will be quite unsavory having to endure a bunch of high-priced lunches and dinners while trying to figure out which firm seems to be the best touchdown for their practices. But what about the rest of the pack? Not everyone has a massive book of business to crash through the gates. Worse yet, what about the freshly minted partners? And let's not forget the bottom of this elite food chain—the associates—what are they supposed to do? As a search and placement professional and executive coach, I've seen the aftermath, and for most, it is not a cozy place.

For the unlucky souls who didn't read the writing on the wall, like a sperm racing toward a fertilized egg, there is significant competition, little to nothing distinguishing them from the rest of the pack, and no prize at the end of the road. It can be a dire situation, and often enough, good solid attorneys who have spent years, money, sweat, and sometimes tears to get to their respective positions in the industry have to leave it all together. Sad? Yes. Painful to watch? Even more so. Preventable? For some, yes.

And while nobody is omniscient (at least that I know of—if you know someone, then call me!), some attorneys are far more near-sighted than their peers. Time and again, we are approached by more attorneys than you'd expect, looking for work *after* their firm or practice has failed. For many, this just isn't their fault. Discerning the earmarks of a failing firm is truly challenging, because most are left to rely on gossip and the media to catch wind. Unfortunately, these sources often don't mobilize until profits have perpetually dropped—the single largest precipitating event to the forty-two failed firms I studied—and enough partners have left to be newsworthy. It is usually at this point where the media picks things up, naively blaming the collapse on a stream of defecting partners, which is tantamount to blaming a gunshot victim's death on blood loss. It wasn't just the blood loss that killed them, what about the bullet? Or the gun? Or the person who pulled the trigger? Or the act that provoked the gunman? There are many other events that conspire below the surface, evading the radar of the media and onlookers alike.

The reality of the matter is that by the time the media is involved and the firm has officially announced that it is going under, the prime cuts have long since been torn away by the lions, leaving the rest of the carcass for the vultures and jackals, and eventually the insects and bacteria. As a potentially homeless attorney, trust me, you don't want to see the rotting side of the carnage. For the astute careerist, there are (fortunately) common themes, threads, and symptoms that manifest when a firm is beginning to run aground. As is often the case, though, when one is too deep in the woods, the forest can be lost through the trees.

Some attorneys know nothing of these red flags; others do, but are still unable to see them. Worse yet, some just don't want to take their head out of the sand. The Failing Law Firm is a guide, if you will, for those seeking the earmarks of a failing firm, or more constructively, the earmarks of a stable firm. I take you through a soup to nuts exploration of the phenomenon of failing firms, and more importantly, the attributes of a healthy one. My objective is to educate you on the symptoms while pulling any wool or sleep from your eyes. This way, you can react to a potentially failing firm in a timely and fully informed manner. At the same time, as a potential lateral partner, you will also have a very powerful gauge with which to measure the fortitude of a prospective firm. So, without further ado, let's begin.