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Upside of the Recession

FLEXIBILITY PAYING OFF FOR SOME FIRMS

By Josiah J. Puder

Amid the flurry of headlines shouting, “Thousands Laid Off,” “Bloody Thursday,” and “Firm Closes,” it’s easy to overlook those firms and young lawyers who are not only surviving this recession, but maintaining a steady practice and growing.

In fact, small and midsized law firms are experiencing some surge in business in 2009. These firms are capitalizing on their strengths, which include efficiency and lower-cost services as compared to their larger counterparts. Smaller associate classes this fall and the threat of more large law firm layoffs have allowed small and midsized firms to attract young attorneys from top law schools and law firms with a

simple yet attractive proposition: a job.

Young lawyer Matt Butler, a principal of the small litigation firm of Nicholas and Butler LLP, in

the uncertainty. “We have to be smart about how we use dollars now,” said Eric Koester, an associate at Cooley Godward Kronish LLP in Seattle. Without formally being told to cut their travel and expenses, many lawyers have taken it upon themselves to reduce nonbillable expenses until the market regains some momentum. “I’m just trying to focus on what I can control—being responsive to clients and providing high-quality work product. Now isn’t the time

are working with clients to help reduce their anxiety over bills,” said Gadhok.

Gadhok reports that his firm is sensitive to clients’ billing concerns and that he does his best to see both parties accomplish their goals without parting ways over unpaid or late bills. “The message is we care and will work with you,” Gadhok explained.

Firms that maintain flexibility in addressing clients’ financial needs have even been able to

For one young lawyer in northern New Jersey, the recession has been an opportunity to finally pursue his dream of hanging out his own shingle. As Dan Marchese’s former firm started to experience decreased business, he decided to start investigating office space rent. What Marchese found was that now just might be the best time to start a law practice with lower costs for labor, office space and equipment.

Overall, for firms that are not leveraged and are willing to be flexible, the times are not as bad as many legal blogs report. According to Seth Levy, a young lawyer and partner with Davis Wright Tremaine LLP in Los Angeles, “While clients are asking more about bills, rate reductions, and inquiring more into firm efficiencies, if your rate structure is competitive to begin with, you will be in decent shape.”

Small and midsized law firms are experiencing some surge in business.

San Diego, believes that his firm is faring fine under this recession. “We haven’t really made cuts,” said Butler. “We have experienced slower growth than we otherwise would have, but we’re simply growing in a more conservative fashion.”

Still, many firms’ plans for rapid expansion and associate hiring sprees have halted as a result of

to take our eyes off the ball,” said Koester.

Clearly, firms are being forced to make sacrifices and adapt to the current economic climate in order to weather this economic storm. Raj Gadhok, a young lawyer and partner at Kozyra & Hartz, LLC, in Roseland, New Jersey, echoed the recent widespread practice of not raising rates. “We

pick up new business. “We have some alternative fee arrangements that fit well with where our clients are right now. We’re not afraid to work on a project fee basis,” said Leslie Curran, a partner at Plave Koch in suburban Washington, D.C. Curran is a young lawyer whose boutique firm spun off a few years ago from two large firms.

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A Young Lawyer’s Financial Survival Guide

By Thomas A. Haunty

As a young lawyer, you probably have never faced an economic downturn like the one we’re in now. Gone are the days of reaching your goals by simply moving to a higher-paid position at another firm or relying on credit, which is now much more difficult to obtain. To survive financially through these tighter times, you need to implement strategies that get the most out of your current paycheck.

Cut back. You can’t control the economy, but you can control your spending. It’s time for a

harsh reality check about what you “have to” buy. Your goal should be to develop a budget that allows you to live on at least 20 percent less than what you earn. Identify all expenses that can be trimmed, such as your clothing budget, and cut out frills such as eating out for lunch. What you call a “need” versus a desire must be drastically redefined so you can start spending less.

For a while, you may have to use all cash—no credit or debit cards—to pay for everything you

can as a form of spending control. You also can escrow money each month into a savings account to pay for larger expenses that arise during the year, such as car maintenance and insurance, so you won’t have the opportunity to spend the money on luxuries.

Another area to reign in is any overpayment of income taxes on your paycheck. Overwithholding produces annual tax refunds that could be better used to make savings a monthly habit, decrease debts sooner, and invest regularly. Boost your take-home pay by increasing your exemptions on your W-4 form and refile it with your payroll department. One reason to do this now is that some states facing budget crises of their own are holding back on paying out those refunds this year.

Protect yourself. One of the first places to save those extra dollars is in a separate bank savings account. This will be your accessible emergency fund to protect you against unexpected bills, lower-than-expected bonuses, or a pay cut. Safety of principal and liquidity are more important than the interest rate on the account. You should save several months’ worth of expenses in case you become unemployed.

Another way to increase your financial security during this time is to use personal insurance plans. Take control by maintaining individual-owned life and disability insurance programs that are portable between jobs. You can no longer rely solely on your firm’s benefits package, which can be reduced during tighter

economic times or lost completely if you are laid off. The pressure to cut expenses can tempt you to eliminate these protections, but this often undermines the increased security that you are seeking.

Think long-term. Use the extra cash flow from cutting your expenses to reduce those credit



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Employment Law

TO NOTICE OR NOT TO NOTICE THE WARN ACT

By Sean F. Darke

As a result of the current economic downturn, some companies are facing the difficult decision of whether to implement mass layoffs or close divisions or departments. As a result, businesses are looking to legal counsel to instruct them about what legal issues may arise when taking such actions.

Most employees are “at-will,” which means employers are not required to provide employees with notice of layoffs or closings. But Congress determined that certain layoffs should require notice to the employees, community, and local government—enter the WARN Act. The federal Worker Adjustment and

Retraining Notification Act, 29 U.S.C. § 2101 *et seq.*, which was enacted in 1988, requires qualified businesses to provide employees written notice at least 60 calendar days prior to a mass layoff or plant closing.

The purpose of WARN is to establish a bridge from one job to another. Although unemployment benefits support this bridge, Congress was concerned that if a major company in a community started to have financial problems and lay off a majority of its workforce without warning, the community and its families would be devastated.

Under WARN, not all businesses must provide notice; there are qualifications and certain exceptions that may trigger the need for notice. For example, a private business must have more than 100 full-time employees or employ 100 or more employees who work at least a combined 4,000 hours per week and plan to lay off at least 50 employees at a “single site of employment.” This is a key provision that triggers WARN notice, but attorneys must review their state law and perhaps a collective bargaining agreement, where different notice requirements

may be in place. For example, Illinois enacted its own WARN Act that requires businesses with only 75 employees to provide written notice of layoffs or closings.

If businesses meet the initial employee threshold requirement for WARN notice, they must provide notice to all employees who are protected under WARN. The following employees are protected under WARN:

- employees who are terminated or laid off for more than six months or who have their hours reduced 50 percent or more in any six-month period as a result of the mass layoff or plant closing;
- employees who may reasonably be expected to experience an employment loss as a result of a proposed mass layoff or plant closing;
- employees who are on temporary layoff but have a reasonable expectation of recall (this includes employees on medical, maternity, or other leave); and
- part-time employees (as stated earlier, only full-time employees are counted to determine whether notice needs to be sent, but if notice is required part-time employees also receive notice).

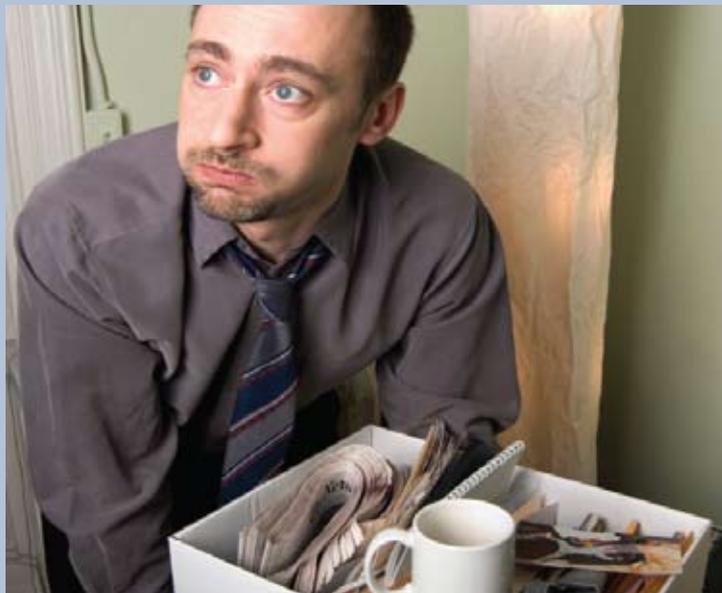
Employees who are *not* protected under WARN are

- strikers or employees who have been locked out in a labor dispute;
- employees on a temporary project, business partners, consultants, or contract employees; and
- regular federal, state, and local government employees.

For plant closures, a company needs to provide notice to employees when it:

- permanently or temporarily closes a business operation that involves at least 50 employees at a single site;
- lays off 500 or more employees at a single site for a 30-day period or lays off 50 to 499 employees when such layoffs constitute 33 percent of the workforce at that site;
- believes the layoff will be less than 6 months, but it extends beyond the 6 months; or
- reduces the hours of 50 or more employees by 50 percent for each month in a 6-month period.

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Facing a Layoff? SEVEN THINGS YOU CAN DO TODAY

By Tim Batdorf

The economy is down. Deals fall through. Profits fall. Clients go out of business. And lawyers lose jobs. So, what can you do *now* to prepare yourself in the event of a layoff?

Create your “to-do” list. Facing a layoff can feel paralyzing. But being proactive and creating a list of action items will help motivate you and chart your course forward. Items on your to-do list might include updating your résumé and creating “job search” business cards.

Talk to your loved ones. Don’t avoid the obvious. Talk to your

significant other, family, or close friends about your current situation. Keeping quiet (and trying to spare loved ones from distress) often backfires. Consider how you will talk to your children in an age-appropriate manner.

Maintain your network. Avoid isolation. Stay in touch with your network of friends and colleagues. They may be able to help you find a job or maintain a positive attitude. Your current employer may have ongoing projects for you. Don’t be too shy or embarrassed to ask for work.

Conduct due diligence. Be prepared to face issues that arise in layoff situations, including reviewing your severance package, maintaining health insurance coverage, rolling over your 401(k), and understanding the application process for unemployment benefits.

Manage your money. Track your expenses. Look for opportunities to save money. Common ways to save include cutting back on restaurant and meal expenses, reducing interest payments on credit cards, taking advantage of sales, reducing consumption of services, and/or comparing phone services and automobile insurance coverage. With a little research, you will find a ton of information about how you can live well on a “shoestring” budget.

Acknowledge your emotions. Times are tough. If you have not been laid off, you probably know someone who has. It is natural to feel a mixture of fear, resentment, and sadness in difficult times. Deal with your emotions in a healthy way. Avoid self-medicating with drugs and alcohol. Find good resources to move through this time. Perhaps you can get support from friends and family, or a minister, priest, rabbi, counselor, career coach, or a support group.

Assess your career. If you have been considering a career change, now may be the perfect time to explore your options. Consider the debt you will take on if you decide to go back to school.

By thinking ahead, you’ll be

ready in the event of a major life change, and that will relieve significant stress. A little bit of planning goes a long way. Start developing your action plan today.

Tim Batdorf is a career coach and practicing lawyer. You can contact him through his Web site www.lawyerandself.com.

CHECKLIST

- 1. Create your “to-do” list.
- 2. Talk to your loved ones.
- 3. Maintain your network.
- 4. Conduct due diligence.
- 5. Manage your money.
- 6. Acknowledge your emotions.
- 7. Assess your career.

Securing Your Law Firm Job in a Down Economy

By Susan A. Berson

By now, your law firm's management has (hopefully) developed a plan to successfully carry the firm through 2010. However, just as law firms must adapt to the economic climate, so must their employees. Take a proactive approach to safeguarding your job and consider the following suggestions.

Do outstanding work. Now more than ever, your work product is what counts. It is how you add value to your firm and build a solid reputation. Every assignment counts. If you are on a short deadline and become concerned that you could do a better job with more time, don't be afraid to ask for it. Also, remember that clients are paying for solutions and not just issuing spotting; you should offer alternatives when possible.

Think like an owner. This means understanding firm economics. Depending on overhead costs, as a general rule, you must bill two-and-a-half times your salary before a large firm will profit from you. For many firms, the current economic conditions have resulted in client work drying up or clients freezing the rates that they will pay for associate work—sometimes even partner work—which means a freeze on associate salaries and, at some firms, layoffs.

Law firm management does understand that in this economy there are few practice groups where attorneys are able to walk into their offices, turn on the light switch, and start billing. Nevertheless, to avoid explaining to management why you aren't satisfying your billable-hour requirement, you should be flexible about trying a new practice area and ready to learn. In addition, associates who are willing to handle boring assignments, cover weekend or evening projects, and work outside their practice groups will garner better job security.

Become sought after. When

partners must decide where to make personnel cuts, the nameless, faceless associates will be first on the layoff list. If one or more partners see you as the "go-to-associate" when things must be done, your job is more secure. You may be a hard worker but becoming the go-to associate is not just about hard work. It's about building a reliable reputation and good relationships with partners, senior



associates, staff, and clients. Remember, staff members are being paid to work for you, but how and when they get your work done may mean success or failure in your job performance. Treat everyone with respect. Show that no matter what is thrown at you, your focus remains on accomplishing the goals of clients and the firm.

Focus on what you can control. Partner exits, client losses, and practice group purges are beyond your control. How you approach your own career advancement is not. Educate yourself about the firm's expertise in areas that are booming. Figure out where you can be brought in. It sounds cliché, but a positive attitude counts; if you were given a choice between two paralegals who were equal in all categories, except personal disposition, wouldn't you choose to work with the consistently pleasant person rather than the grumpy one?

Seek advice. Some practice groups routinely experience lulls during certain periods. For example, your firm's trans-

Most first-year law associates spend their time in the library. Ours spend their time someplace more appropriate: the courtroom.

Uphold justice. As a Navy Judge Advocate General's (JAG) Corps officer that's exactly what you'll do. From day one you will be assigned your own cases, receive a competitive salary and practice law in some of the most exciting locations in the world. Advance your career today, instead of someone else's. To find out more, call 1-800-USA-NAVY and ask for the JAG Corps, or visit www.navy.com/officcr.

NAVY

actional attorneys may have survived past economic slumps (given that bankruptcy, litigation, and regulatory work typically increases when corporate work slows) and may be able to offer their views on the current market and workload expected in your area in the next six to twelve months. Consulting with these co-workers can give you

a read on whether it's time to send out résumés. It also leaves your co-workers with the impression that you are an integral part of the team. As a result, you may find you are included when an article needs writing or a business development pitch arises.

For most associates, the ultimate goal is to become a highly

skilled lawyer while building a financial nest egg. Following these suggestions can help you achieve your goal despite the financial uncertainties many law firms are facing.

Susan A. Berson, a partner in The Banking & Tax Law Group LLP, conducts associate personal finance seminars. She can be contacted at sberson@banktaxlaw.com.

YLD CALENDAR & CONFERENCES

MAY 14-16	ABA YOUNG LAWYERS DIVISION AND LAW PRACTICE MANAGEMENT SECTION JOINT SPRING CONFERENCE NEW ORLEANS, LA
MAY 21	 FUNDAMENTALS OF TAX-EXEMPT HEALTHCARE ORGANIZATIONS
JUNE 2	 SOLUTIONS: OVERCOMING THE OBSTACLES OF GOING AND BEING SOLO IN A DOWN ECONOMY
JUNE 15	YLD SCHOLARSHIP APPLICATION DEADLINE
JUNE 15-17	BANKING LAW BASICS SAN FRANCISCO, CA
JUNE 18	 FUNDAMENTALS OF INSURED AND MANAGED CARE
JULY 7	 ELEVATING YOUR ADVOCACY: THE DIFFERENCES BETWEEN LITIGATING IN TRIAL AND APPELLATE COURTS
JULY 9-10	3RD ANNUAL LITIGATION INSTITUTE FOR TRIAL TRAINING (LITT) CHICAGO, IL
Visit the ABA YLD Calendar for additional information: www.abanet.org/yld/meetings.html	

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Become Recession Ready

ABA's new Economic Recovery Resources Web Portal

www.abanet.org/economicrecovery

During this economic downturn, getting help with your career, your practice, and your well-being is just a mouse click away. The ABA's new Economic Recovery Resources Web Portal offers assistance in weathering these tough times. From information on job searching, personal development, and career transitions to practice management tips, advice for dealing with stress, and discounts on ABA offerings, the site offers a compilation of the association's vast resources in a single, easy-to-navigate Web site.

Introduced earlier this year, the Economic Recovery Resources Portal comes at a critical time. Compared to a year ago, the number of managers and professionals, including lawyers, without work has nearly doubled, according to the As-

sociated Press.

The Economic Recovery Resources Portal consists of **six topic areas**: job search and networking, career transitions, practice management, professional development, stress management, and savings. Each section contains a variety of resources that include practical advice from section publications, links to practice tools and other ABA resources, and information on relevant books and CLEs available through the association.

A particularly useful resource in the savings section is a list of CLEs available for free. Nearly fifty CLE Now! sessions on a wide range of legal topics are offered by the Center for CLE. These programs are digital downloads that members can access whenever and wherever they want.

(From the March 2009 edition of "YourABA" e-news for members)

ABA Commission on Lawyer Assistance Programs

1-866-LAW-LAPS

www.abanet.org/legalservices/colap

The ABA Commission on Lawyer Assistance Programs (CoLAP) provides a unique service on behalf of ABA members. During this time of career and financial uncertainty, lawyers are experiencing new stress and trauma. State lawyer assistance programs look to the CoLAP for support and guidance. The Commission also makes referrals to state LAPs from CoLAP's toll-free telephone number. The states that have staffed LAPs can provide peer support to individuals and referrals to counseling—career, mental, and financial.

Lawyers who call CoLAP's Hotline will be given phone numbers for LAP staff or volunteers who can listen and guide them through the initial crisis. LAPs provide a lifeline for action to lawyers in difficult times.

(From the CoLAP Informational Report to the ABA House of Delegates)

Financial Survival Guide

■ continued from page 1

card balances from law school. Do not overlook paying off small debts first to kick-start the momentum of your debt-reduction plan. Review your student loan debt terms and take another look at loan repayment programs available to you. Properly addressing your debts will enhance your credit rating, which is something that is becoming more vital in today's tight credit markets.

Young lawyers cannot afford to focus only on debt reduction. It can cause you to miss out on the advantages and potential returns from diverse accumulation vehicles. For example, do not miss adding to your firm's 401(k) plan as it provides you tax-deductible contributions, tax-deferred growth, and even the firm's matching contributions. Despite what many believe, now also may be an attractive time to add more to investments given the general market conditions.

Delegate. A lack of time and

career pressure may delay young lawyers in addressing these important financial issues, so it is important to seek the help of a trusted financial advisor who can give you the accountability you need to stay on the right financial path.

Implementing these strategies now, at the beginning of your law career, develops the right financial habits that, if consistently applied over time, can build wealth. Start now to get your financial house in order so you can not only survive this recession, but actually set a strong foundation for the future.

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