

# EXTRA

Supplement to the Los Angeles  
Daily Journal and San Francisco  
Daily Journal

December 29, 2003

ADVISER

DAILY JOURNAL EXTRA

## LAW PRACTICE

# On a Tightrope

Next year promises to be much better for the remaining firms that the past three years, especially for the biggest, best managed. **By: Sandford A. Lechtick**

If someone had suggested to me two or three years ago that Brobeck, Phleger & Harrison; Lyon & Lyon; and Skjerven Morrill would be out of existence by 2004; and that firms like Riordan & McKenzie; McCutchen, Doyle, Brown & Enersen; Venture Law Group; and Crosby, Heafey, Roach & May would've merged with larger entities, I would have thought somebody must be smoking the funny stuff.

Even litigation stalwarts Feldman, Ostrov, Ringler & Klevins and O.Neil, Lysaght & Sun dissolved this year. And Arter & Hadden and Pennie & Edmonds, each headquarter out of state but with significant California presences, closed their doors. All the above-mentioned firms were prominent, profitable, deep-rooted operations with excellent reputations in the state and even nationally.

Certainly, we have all seen small, loosely assembled law firms implode, disintegrate or get chopped up like kindling by larger law firms, but majestic Redwoods like McCutchen Doyle; Lyon & Lyon and Brobeck Phleger?

Brobeck Phleger, after all, towered over most California firms and became the state's most profitable in 2001, with partner profits exceeding \$1.1 million, more than Latham & Watkins; O.Melveny & Myers and Gibson, Dunn & Crutcher. Lyon & Lyon had been king of the hill and McCutchen Doyle once was discussed with the same deference as other top San Francisco-based firms, including: Heller Ehrman White & McAuliffe; Orrick, Herrington & Sutcliffe; and Morrison & Foerster. Following the recent joining of Pennie & Edmonds with Jones Day minus the Silicon Valley group with which Morgan, Lewis & Bockius struck a deal, what other earthquakes can we expect for 2004?

The New Year likely will be similar to 2003, though not as dramatic. The legal industry won't necessarily witness any implosions as awesome as Brobeck's meltdown, but we'll see a continuation of what's been happening the last few years. On the financial front, things are looking up. Certainly recessions impact law firm's prosperity and expose cracks in the dam, especially those at miss-managed firms. With severe competition for top laterals, a firm's missteps (for example, compensation system that favors insiders over merit performance) can be disastrous.

Some firms have clearly been socked in the solar plexus the last few years. Some, especially many based in Silicon Valley, have been humbled and awakened to the realization that technology is not the Holy Grail. There's something to be said for having boring old economy clients who pay their bills on time with good hard cash.

Clearly, the practice of law is a mirror of the business pre-2002, the deal flow, general corporate, work mergers and acquisitions and securities- especially in the initial public offerings- generated the awesome power of Niagara Falls on a rainy day in June. In the last 2-3 years, corporate work, especially in Silicon Valley, has been more like a trickle from a leaky faucet. Litigation, on the other hand, has been the gale pushing law firms continued prosperity. Law firms with significant practices have obviously weathered the storm clouds in the last few years better than firms more heavily weighed in the corporate sector. Yet it must be said that the firms with corporate departments who kept their heads above water, are now much better positioned to exploit the 2004 turnaround. For 2004, like 2003, firms lacking leadership and strong glue will drift and lose good people; the strong firms will get stronger. The mega firms will continue to be opportunistic about grabbing groups and in some cases entire firms.

All will look at filling their dance card with desirable partners, most notably high-stakes patent litigators, great corporate lawyers and experienced trial lawyers with established clients. If word spreads on any firms in play, you'll see key partners from all over the nation moving in for the kill. When it became apparent that not all of Pennie & Edmonds was going to Jones Day because of client conflicts, Morgan Lewis partners flew into town faster than teenagers with free tickets to a Britney Spears concert.

The good news is that the economy is on the rebound, technology is coming back, there are more deals in the works, and law firm leaders are more optimistic than I have seen them in years. In another sign of good things happening, Latham & Watkins recently promoted 30 lawyers to partners, 10 more than last year; Paul, Hastings, Janofsky & Walker recently named 11 new partners, one of its larger classes in years. And scuttlebutt I am hearing from other firms suggests that decision-makers see the revenue pie getting bigger and are not fearful of doling out more slices to more partners.

Larger, more full service firms and those who have eggs in a lot of baskets will continue to do better than the Silicon Valley corporate/IPO technology firms who do not have large non-technology practices to fall back upon.

## **Leadership, Leadership, Leadership**

If I were to identify the three most important common denominators of law firms that have done well the last three, tough years and that will continue to do well, I would select law firms' leadership, their vision for the future and their ability to successfully execute that vision.

Well-led firms effectively adapt to a changing business environment, create and sustain a culture that keeps and attracts good people and increases profitability. More important than ever is leadership and the role the leaders play in implementing a game plan that plays to the firm's strengths and is designed to expand its relationships with existing and new clients.

Too many firms are rudderless and leadership positions are sometimes filled by default. Some leaders are chosen for the wrong reasons and are figurehead caretakers. Too few "leaders" ask the tough questions. Many don't offer compelling answers:

1. What do we really stand for?
2. What separates us from our main competitors?
3. How can we increase market share?
4. How can we make our pitch to prospective laterals more compelling?
5. What are our core strengths and core practice areas that we are committed to building?
6. Are we cross-selling our clients as effectively as we should, or are we giving lip service to "cross fertilization" and "team tackle" marketing? What can we do better, different?
7. What can we do to attract higher paying clients?
8. How can we accelerate the turnaround time on attractive laterals?
9. How can we better train (and retain) our up-and-coming leaders?
10. What important decisions are we putting off?

## **Platform**

While everyone talks about the money and compensation is certainly a critical component, a firm's "platform" is becoming increasingly important, especially in recruitment of partners with portable practices and top mid-level to senior level associates. In our recruitment activities, perhaps the threshold question I am asked is, "How can law firm 'A' or law firm 'B' expand my practice? What are they doing better or different than my present firm? What do they offer in terms of infrastructure, marketing muscle, resources that I can exploit? Are they simply buying a book or legitimately interested in expanding the specific area that I specialize in?" I see many signs that 2004 will be a much better year than the last three. The biggest and best-managed firms with lots of eggs in lots of great baskets will continue to do well: The question is, what will happen to all the rest? One thing is for sure: Firms with strong market-oriented entrepreneurial leadership, a solid work ethic, cohesive team culture, merit-oriented compensation and a platform that encourages practice growth, as well as eye on the bottom line, will prosper.

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