

June 27, 2012

## **MIDYEAR UPDATE**

### **WHAT'S HOT AND WHAT'S NOT IN THE LEGAL PROFESSION**

Whether they become part of the “New Normal” or just fade away like the proverbial Old Soldier, there are a lot of things going on in the legal profession this election year. Here are some that we consider to be the most significant or interesting.

#### **PRACTICE AREAS**

##### **Red Hot**

**Energy.** The “shale rush” along with advances in fracking technology have revitalized the natural gas industry and the establishment of offshore oil deposits in the Gulf of Mexico have all combined to attract global companies to invest in the U.S. And there’s no client resistance to the high fees.

**Financial Services.** Bank failures, internet commerce and, of course, new laws such as Dodd-Frank are fueling this area. And it’s not just at large firms. Smaller regional firms such as Friedman Schuman are capitalizing on their historic strength in this area.

##### **Hot**

**Regulatory.** It starts at the Federal level with health care reform and the EPA and flows down to the state and local levels.

**Health Care.** As this is written the Supreme Court’s decision on Obama Care has not been announced but, whatever it is, Health Care, along with the insurance industry, will get Red Hot.

**Intellectual Property Litigation,** This is due largely to a dramatic increase in patent, copyright and trademark infringement suits.

##### **Cool**

**IPOs.** They dropped 20% last year. The Facebook fiasco just made things worse. But sources report there is pent-up demand so this could get Hot again this Fall.

**M&A.** Not only has the total number of deals declined but also the number of large deals over \$1 billion is at the lowest level since 2008.

**Securities Class Action.** A study by Stanford University Law School and Cornerstone Research says the trend has been toward far fewer cases and smaller settlements.

#### **HOT GEOGRAPHIC MARKETS**

**Houston.** As we reported last year, all forms of energy continue to draw firms from elsewhere.

**Pittsburgh.** The “shale rush” has attracted five outside firms in just the last six months.

**North Dakota.** Here too it’s mostly about shale.

**Brazil.** As we have been reporting for two years. Remember, it’s the world’s fifth largest country.

**Latin America.** DLA Piper is the latest global firm to open an office in Mexico City.

**South Korea.** The U.S.-South Korea trade agreement, which took effect in March, is the reason.

#### **MARKETING & BUSINESS DEVELOPMENT**

**Marketing Dashboard.** In her earlier article in *Law Practice Today*, Suzanne Donnels discussed building a database to capture relevant BD information and then package the data effectively.

**Social Media.** A study by Hubspot says LinkedIn is by far the best network for lead generation.

**More on Social Media.** In late May the NLRB warned that policies may violate employees’ rights depending on how posts are worded and how the policies are written and interpreted.

**Why Clients Select a Lawyer.** According to a PwC survey, recent relevant experience is the #1 reason clients pick a lawyer. Relationship is #3.

**Virtual BD Training.** Veteran sales coach Mike Ohoro has invented Rainmaker VT which he says reduces per-lawyer training costs by 80% and identifies lawyers most likely to perform successfully.

**Law School Curriculums.** The LMA Metro Philadelphia Chapter hosted a discussion about the possible role of law schools in educating lawyers in business development and the business of law **Strategy.** Blank Rome has created the position of Chief Strategy Officer to work directly with department heads and practice group leaders to develop and implement strategies and policies.

## **HOT AND NOT-SO-HOT TRENDS & ISSUES**

**The job market for law school graduates.** It's gotten worse. According to a just-released ABA report covering 198 of 201 accredited law schools, nine months after graduation only 55% of the graduates had "full-time, long-term" jobs requiring a law degree. However, the 12 top-rated schools reported that 80% or more of their graduates had obtained such employment.

**Incoming classes.** Faced with a weak lawyer job market and a declining number of applicants, a few law schools are cutting the size of their incoming classes this fall. However, they could implement several strategies that would make a law degree more desirable. These are discussed in Bob Denney's article, "Law Schools Need New Strategies to Reverse Negative Trends", in the September/October issue of *Law Practice* magazine.

**Law school online.** Washington University's law school will offer a master's degree in U.S. law, entirely online, for lawyers practicing overseas.

**Law vs. medical education.** In May a Massachusetts Bar Association Task Force recommended that law schools learn from medical schools on how to provide practical experience to 3Ls.

**Cybersecurity.** As hackers increasingly target law firms, lawyers are being asked to encrypt messages, resist using free Wi-Fi connections and regard text messages as potential security threats.

**Australian/Sino lash-up.** In March, Australia's Mallesons Stephens Jacques and China's King & Wood formed King & Wood Mallesons, the biggest combination yet that did not involve a firm from either the U.S. or the U.K. The structure, called a *verein*, was in part to accommodate Chinese restrictions barring foreign firms from practicing domestic law there.

**Predictive Coding.** This is a term referring to computer programs that use algorithms to determine which documents are relative to a case. Another program used in discovery is keyword searching. Both programs reduce the amount of human review but many lawyers say there is no adequate substitute.

**Cost Pressures.** Are they starting to ease up? Altman Weil's annual survey of general counsel says 56% of them reported an increase in their 2012 budgets for outside counsel.

**Alternate Fee Arrangements.** AW's survey also stated that AFAs accounted for only 14% of total fees for outside counsel. Other surveys state GCs say AFAs need to better control costs, provide greater accuracy in fee estimates, promote greater lawyer efficiency and better allocate risk.

**Other types of outsourcing.** CPA firm Dent Brubaker in Birmingham, AL, has a wholly owned subsidiary, Impact Technology Group, LLC, to reduce firm's IT costs by outsourcing.

**Mandatory Pro Bono.** Starting in 2013, prospective lawyers must have performed 50 hours of pro bono service to qualify for admission to the New York state bar.

**Corporate Procurement departments** are having a greater voice in selecting outside counsel but are still learning the legal services sector and how to collaborate with their legal departments.

**Non-lawyer investors.** The Legal Services Act in the U.K. authorizes the acquisition of law firms by non-law firm owners. In what may be the first such purchase by a publicly traded company, Quindell Portfolio plans to acquire a personal injury firm. Meanwhile, the ABA is considering if it will present a proposal that would allow non-lawyers who work at U.S. law firms to own as much as 25% of the firm. Needless to say, there is strong opposition, which includes the GC at I.B.M.

**Animal Court.** We didn't make this up. In a WSJ Law Blog, Joe Palazzolo reported that a municipal court judge in San Antonio considers crimes involving canines. City officials decided it was needed to crack down on recurring civic problems like dog bites and stray pets that weren't getting sufficient attention on regular courts' dockets.

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