Shaking legal's foundations

Law firms feel recession's impact

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DLA Piper LLP laid off 101 lawyers this year. Miles & Stockbridge P.C. shortened its summer associate program by two weeks. And Whiteford, Taylor & Preston LLP offered incoming associates $3,500 a month — to delay starting work at the firm.

These are some pretty drastic moves for a profession that escaped past economic downturns mostly unscathed. But this recession has been an equal-opportunity business-buster, overwhelming even the biggest law firms along with the rest of the U.S. economy.

In response, firms have been forced to change the way they do business in ways likely to last even after the economy rebounds, experts say. It will mean a smaller work force at many firms, changes in how firms bill clients and midsize firms picking up work that once would once have gone to larger competitors in New York and Washington, D.C.

"It's a very unique time for the profession," said Michelle Harner, an associate professor at the University of Maryland School of Law and a former partner at Jones Day, a large Cleveland law firm. "In past recessions we've seen impacts on law firms, but nothing like today."

Through the first seven months of this year, law firms laid off 11,319 people, including 4,260 lawyers, said Pamela Woldow, a principal at Altman Weil, a legal industry consulting firm in Newtown Square, Pa. The list includes DLA Piper, which also laid off 201 staffers across the firm. Venable LLP, which started in Baltimore and still maintains a sizeable office here, also reportedly laid off 64 staffers across the firm, including 16 lawyers. Miles & Stockbridge laid off eight non-lawyer staffers in April, and reduced the compensation of its attorneys, said John Frisch, the firm's chairman.

The firms that have had to cut the deepest handled a lot of real estate deals and mergers and acquisitions, and packaged into securities the mortgages and other debt Wall Street sold to investors. As the economy tanked, all three types of legal work dried up, leaving "scores of associates, trained in transactional work, who had nothing to do," said Harner.

Salary cuts, delayed start dates

Even before they start their careers, new lawyers at some firms are facing pay cuts.

DLA Piper reduced salaries for first-year associates by about 10 percent this year, as did McGuireWoods LLP, a 900-lawyer Richmond, Va.-based law firm. McGuireWoods cut the starting salary for new associates in its Baltimore office to $130,000, down from $145,000.

Many firms have also pushed back the start date for new associates to reduce costs and buy some time until the economy improves.

DLA Piper told its 94 new associates, who would usually join the firm in October, they could defer starting until January 2010. Or, the firm would pay them a $60,000 stipend to work in a public service legal job if they agreed to push their start date back to January 2011. The firm will make a similar offer to the crop of new lawyers scheduled to start in October 2010.

Whiteford, Taylor gave its five new associates, who will start in September, the option of delaying their start date by up to four months. It offered to pay them a stipend of $3,500 a month, plus health insurance, to delay joining the firm, said Martin Fletcher, the firm's managing partner. No one took the firm up on its offer, Fletcher said.

Firms also are tightening up on their summer associate programs, the paid internships for first- and second-year law students that is the primary way firms recruit new lawyers.

A handful — including two large Philadelphia firms, Morgan Lewis & Bockius, and Ballard Spahr Andrews & Ingersoll LLP — won't offer a summer associate program in 2010. Ballard Spahr, which has a Baltimore office, declined through a spokesman to comment.

Miles & Stockbridge plans to keep its summer associate program next year.However, the firm shortened this summer's program to eight weeks, down from 10 weeks. Whiteford, Taylor made a similar change this year, said Fletcher, its managing partner.

The end of the billable hour?

Perhaps the biggest change brought about by the recession is a greater push by clients who want to be billed in a way different than the traditional per-hour basis. Billable hours have been as much a part of big law firms as pinstripe suits and wing tip shoes.

But as companies look to rein in legal costs, and want to know how much money they need to budget for legal services, they're asking their law firms for other billing arrangements.

"There are a lot of great litigators and a lot of great corporate lawyers, so if you're not getting satisfaction from one firm, you can transfer your work to another one," said H. Ward Classen, deputy general counsel at Computer Sciences Corp. in Hanover and a past-president of the Baltimore chapter of the Association of Corporate Counsel.

These arrangements include charging clients a flat fee for certain work, offering discounts or doing work on a contingency basis, where the client doesn't pay anything if a deal isn't completed.

Saul Ewing LLP, a Philadelphia-based law firm, rolled out a highly publicized "cost certainty commitment" in June. The firm will do certain types of work, such as M&A due diligence, on a flat-fee basis, rather than billing by the hour.

The firm's Baltimore office is handling three deals for a pharmaceutical industry client on a flat-fee basis, said Barry Levin, a partner in the Baltimore office and a member of the firm's executive committee.

"We've always had some percentage of alternative fee arrangements," Levin said. "It's not a new topic, but it's receiving a lot more attention and emphasis. And I think that's directly related to the economy."

The firm is "more sensitive and sensitized to our client needs in these down economic times," he added.

Frisch, the chairman at Miles & Stockbridge, said he hasn't seen "a groundswell" of clients asking for flat fees or other alternatives to billable hours. However, the firm is having more discussions with clients about legal fees before starting a project, he said.

"Clients don't like to be surprised," Frisch said. "That's the No. 1 rule."

Frisch also said he's visiting more of the firm's clients this year to gauge their level of satisfaction.

Attract and retain

While some have been predicting the demise of the billable hour for years, Woldow, the legal industry consultant, doubts that will happen. Billable hours will always be the primary way in which firms bill because that's how they judge the productivity of their lawyers and compare firms on cost, Woldow said.

"It's not going to be like a light switch where billable hours go away immediately," she added. "It will be an evolution."

Thomas Cabaniss, managing partner at McGuireWoods, agrees that billable hours aren't going away. What he does see out of the recession is clients moving some of their work away from the big New York law firms to smaller firms "because they can do the work as well at generally lower costs."

Miles & Stockbridge and Whiteford, Taylor each say they are getting work that in the past would have gone to bigger, more expensive firms in New York and Washington, D.C. Whiteford, Taylor's Fletcher declined to name the clients but said they included a manufacturing company that had been using New York firms for all its legal work.