

## **Gloom, Doom and Statistics Who Moved the Cheese?**

By Bill Daniels

the Advocate Magazine, October 2007

As much as lawyers might prefer ignoring numbers, there are some statistics that we ignore at our peril and even our own doom.

On the bright side, those who are able to focus on the realities of a challenging legal environment will always develop the tools they need to not just survive, but thrive. If you find my reasoning cheesy, you're partly right, but you'll need to read on to find out why.

The gloom and doom numbers I'm referring to are U.S. Commerce Department data as reported by The Wall Street Journal in a September 24 story by Amir Efrati titled, *"Hard Case: Job Market Wanes for U.S. Lawyers."*

"For graduates of elite law schools, prospects have never been better," the Journal wrote. "Big law firms this year boosted their starting salaries to as high as \$160,000. But the majority of law-school graduates are suffering from a supply-and-demand imbalance that is suppressing pay and job growth. . . . Evidence of a squeezed market among the majority of private lawyers in the U.S., who work as sole practitioners or at small firms, is growing. A survey of about 650 Chicago lawyers published in the 2005 book "Urban Lawyers" found that between 1975 and 1995 the inflation-adjusted average income of the top 25% of earners, generally big-firm lawyers, grew by 22% -- while income for the other 75% actually dropped."

What I get from the Journal story -- and from talking to folks in the community -- is we are in danger of being separated into a have and have not legal world where some of the practitioners do quite well, some do quite poorly and the middle class is gone and forgotten.

The story of how we got to this juncture is pretty familiar. Decades of corporate financed attacks on our clients' rights to seek justice in the civil system have taken their toll. Limits on general damages, MICRA caps, assumption of the risk defenses and de facto caps on punitive damages have all had an impact. There's also the poisoned jury problem with which we're all so familiar, as business-funded propaganda continues to distort public perception on civil justice issues.

Fewer cases means less work to go around, while at the same time ever more lawyers compete in a stagnant legal marketplace (The Journal reported 43,883 new J.D.s in 2005-06 vs. 37,909 for 2001-02, according to ABA figures, a 16% increase).

So, what to do? The simple answer has to be: First adapt and then, thrive.

If you look around, you will see people who are succeeding in their practices no matter what the statistics say. The survivors I see are embracing change and making it work for them. Personal injury might be tougher, but wage and hour law seems to be increasingly protective of workers. MICRA caps are crushing, yet small businesses are beginning to discover how the contingent fee can level their playing field in contract disputes. One door closes, the saying goes, and another one opens.

The folks who I see having the toughest time in this evolving environment are those who keep wishing and hoping for a return to the "good old days." They're eerily like characters in Dr. Spencer Johnson's 1998 motivational classic, "Who Moved My Cheese?," in which Johnson spins a yarn about two tiny people in a maze who go to the same location every day and find a cheese reward. One day, the cheese gets moved. Instead of trying to find the new location, the hapless people keep running back to the same place every day, hoping against hope that their cheese has returned. After much struggle, they eventually figure out the new world. One writes down his hard won new wisdom on the maze wall and it all boils down to a few simple truths:



**Change Happens.** *They Keep Moving The Cheese*  
**Anticipate Change.** *Get Ready For The Cheese To Move*  
**Monitor Change.** *Smell The Cheese Often So You Know When It Is Getting Old*  
**Adapt To Change Quickly.** *The Quicker You Let Go Of Old Cheese, The Sooner You Can Enjoy New Cheese*  
**Change.** *Move With The Cheese*  
**Enjoy Change!** *Savor The Adventure And Enjoy The Taste Of New Cheese!*  
**Be Ready To Change Quickly And Enjoy It Again & Again.** *They Keep Moving The Cheese.*

Okay, embracing change can be tough. Still, if the economics have changed, isn't it our responsibility as the people's lawyers to find new formulas? Without us, many Americans would find their access to justice completely cut off. Can't let that happen so long as there's breath in our lungs, right?

We can take solace from the fact that in economics, what goes down will generally rise again. In the meantime, hungry for some fresh cheese?

\*\*\*

**Bill Daniels** regularly publishes a variety of articles and videos to keep you abreast of legal developments and case law that affect our society.

**For additional reading and learning:**

[Checklists, Reading Lists and Connecting the Dots](#), Connect the dots from planning to success.  
[Sun Tzu, Lao Tzu; Using Yin And Yang To Help Make Your Cases Stronger](#). Talking about practical principles here and what yin and yang teach us when working your cases.

These previous and other articles/videos can be found in the Learning Center section of [www.BillDanielsLaw.com](http://www.BillDanielsLaw.com)

William A. Daniels is a Trial Attorney with BILL DANIELS | LAW OFFICES, APC, in Encino, CA. His practice focuses on class actions, employment and serious personal injury cases. A graduate of Loyola Law School of Los Angeles, he is a member of the Consumer Attorney Association of Los Angeles Board of governors and a founding member of the Civil Justice Program and the 21<sup>st</sup> Century Trial School at Loyola. For several consecutive years he has been named a "Super Lawyer" Los Angeles Magazine in Southern California.

He can be reached at [William.Daniels@BillDanielsLaw.com](mailto:William.Daniels@BillDanielsLaw.com); [www.BillDanielsLaw.com](http://www.BillDanielsLaw.com)