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For Mid-Sized Entrepreneurial Firms, Recession Can Be a Silver Lining

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There is a particular type of lawyer – middle market and entrepreneurial - who works best within smaller, less stratified firms. These lawyers often thrive in environments where clients treat their lawyers as *ad hoc* business partners, using their lawyers both for their legal acumen and as sounding boards for their business plans.

Although recessions hurt almost every type of law firm, one of the rare silver linings of recessions within the legal world is that recessionary times are actually the best time (from the perspective of both sides of the transaction) for entrepreneurial lawyers to join good mid-sized and smaller firms.

Top billing rates at national and international law firms are approaching \$1,000 an hour. Partners at such firms all bill at least \$500 an hour. More and more, clients are balking at those rates and taking at least some of their work to smaller firms with lower rates. As a result of clients removing some of their more mundane legal work from firms with extremely high billing rates in these hard times, some high quality partners at large firms who watch “their” work moving out the door also leave. They may follow their client(s) to the lower billing firm or find a different lower billing firm and then bring all or most of the rest of their work for that client or group of clients with them.

Additionally, once in a new firm with more flexible billing rates, partners who were formerly with large firms can seek out work they could not even attempt to bring into their large firm. Although pricing is the primary reason new clients can be sought, an ability to bring in smaller pieces of legal work is not merely stymied by billing rates. The work sometimes requires too few hours even if higher rates can be paid or the client wants one particular lawyer on a project and larger firms can be hamstrung by departmental demarcations. I met just last week with a lawyer who was delighted to be calling acquaintances, friends and relatives offering limited free consultations and finding that he was obtaining noticeable paid work.

Many years ago I knew an older partner at an upscale New York law firm who said that the associates he wanted as his partners were the second years who went out to a meeting and came back with at least a will. Lawyers who market their and their firm’s skills and acumen across the board belong at smaller firms and languish in larger, strictly structured, higher billing environments. They often don’t know it however, until they get deequitized, asked to look or are actually fired.

In this recession, large firm partners or counsels who need to or want to join smaller firms have contacted me on numerous occasions. Often, these lawyers still have a client following.

Partners who were once significant rainmakers at national firms have been deequitized when their billings drop below a rather high amount.

In general, high quality lawyers are among the most cautious and perfection driven people in the world. Lawyers who have been told they are no longer welcome at their firms often think of themselves as professional failures. However, in spite of any individual lawyer's belief, when a lawyer has at least \$250,000 in portable billings, there is usually some quality law firm where that lawyer will be welcome. Yes, if one was once responsible for a \$ 1million in billings and therefore, going home with \$400,000, that will not continue. Still, former large firm partners with noticeable business who can scale back their expectations concerning guaranteed compensation will find new and happy homes.

More importantly, because the new firm will have lower billing rates, fewer conflicts and a more flexible attitude about the type of work someone can seek, a new lawyer at a smaller firm, if willing to solicit business from friends and acquaintances, can often acquire new clients in addition to the ones he or she originally had.

It is not always the case that lawyers let go from large firms can find work through a recruiter. When the dollar amount of one's portable business is relatively low, a recruiter's fee will be an issue. Nonetheless, these lawyers can use recruiters for strategic advice and sometimes, informal introductions.

Quality smaller firms can take advantage of this situation by overcoming two common prejudices. First, especially in a recession, technically excellent lawyers with clients are asked to leave big firms. Being asked to leave is not a presumptive indication of anything except that the person does not create downpours. He or she can still make rain. Therefore, smaller firms should not believe that anyone asked to leave or concerned about being asked to leave is not a good acquisition.

Also, partners who are not the "billing partner" at the firm which they are leaving, might still be the lawyer the client thinks of first. Clients frequently do follow the lawyer they call first, especially when that lawyer can now bill at lower rates. There is a caveat here. Clients seldom leave their lawyers when those lawyers are relatives or close friends.

Crucially, now is the time for smaller firms to think of their firm's future in multi-year increments. In order to attract someone used to a large firm compensation package, it is sometimes necessary to offer higher compensation than the firm ideally wants to offer. There are ways to make this more palatable, with guaranties and rising percentage formulas. Nonetheless, it is sometimes worth having the equity partners at a smaller firm take a small financial hit for a year or two to attract a partner only available in hard times. In the not too long run, everyone benefits.