

## Law Firm Management

WWW.NYLJ.COM

MONDAY, OCTOBER 19, 2009

# Dinosaurs No More

Mid-sized firms thrive despite predictions to the contrary.

BY VESSELIN MITEV

**L**AST YEAR'S collapse of the financial market triggered an economic maelstrom that impacted law firms across the country. But while large firms were hit hardest and forced to take severe cost-cutting measures like laying off associates and deferring first-year classes, New York's mid-size firms, once considered close to extinction, have emerged largely intact.

The reason, say partners in mid-size firms, is a business model that combines low leverage, fewer offices, diversified practices, flexible billing and an old-fashioned sense of partnership.

"A decade ago, the conventional wisdom was that the mid-size firm is a dinosaur, but the evolutionary process has shown it to be an advanced creature," said Ronald H. Shechtman, managing partner of 125-lawyer Pryor Cashman.

In the last year, the business of law has drastically changed. Attorneys report that clients are demanding more mileage for their dollar, are ready to bargain for legal services and will take their business elsewhere if they are not satisfied. As Mr. Shechtman diplomatically puts it, "clients are increasingly value-oriented" as a direct result of the prevailing fiscal uncertainty.

As Nicholas M. Cannella, senior partner at 150-attorney intellectual property firm Fitzpatrick, Cella, Harper & Scinto, said, "in the good old days, you sent out a bill saying for 'Past Services Rendered' with a number next to it." Now "clients tend to scrutinize bills with greater attention."

### Lean Staffing

Lean staffing is a hallmark of the mid-size model. Where large firms typically staff deals with few partners and teams of associates, the smaller firms keep the partner to associate ratio tighter.

For example, 85-lawyer litigation firm Morrison Cohen has always relied on a lean internal structure where partners and associates are "leveraging off each other" which makes it an easy sell to clients, said managing partner David A. Scherl.

"The negative in the model from a staffing perspective is a huge positive from a client's perspective," he said, adding that in order to sustain success, even the most senior partners have to put in the work.

While larger competitors may have an advantage

in a bull market where clients are more likely to give short shrift to their legal bills, a leanly staffed business model is superior in an unstable economic environment, partners say.

"Leverage is great in an up market, whether it's your margin account or staffing model; if you can keep all those bodies busy and engage them, that leverage is a real profit driver," Mr. Shechtman explained. "If the market is down and you can't, and you are sitting with as many unoccupied bodies, it obviously is much more painful and much more expensive."

By taking on large associate classes, big firms also assume tremendous fixed costs in terms of salaries and benefits. And the larger the firm, the larger the demand for expensive office space. Not so with mid-size firms.

H. Thomas Davis, a member of 105-lawyer Carter Ledyard & Milburn's executive committee, noted that most large firms have moved "from more modest surroundings to nicer offices, and the New York real estate market bid up the price for the surroundings and the labor market bid up the market for associates," Mr. Davis explains.

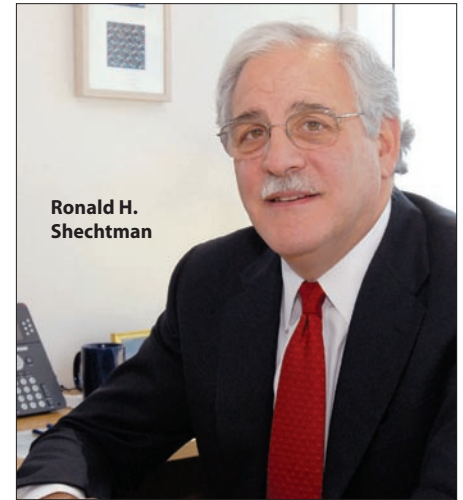
"Mid-sized firms are better positioned to weather a downturn because of their structure," said Mr. Davis, who focuses on business transactions and intellectual property issues. "I think law firms have been told for a long time that they ought to think of themselves as an accounting firm with offices in big cities because that's what their clients want, but that presents huge management challenges—it's very hard to run an efficient firm with many offices in many places."

### Diverse Practices

In addition to lower leverage and minimal fixed costs, some mid-size firms point to their mix of practice areas as a major reason for staying ahead of the curve.

"We don't have a single client who represents more than 4 percent of our business," Mr. Shechtman said. "Our top 20 clients make up less than one-third of our business, unlike some mid-sized firms that are dependent on one or two large clients or one or two industries and when that industry gets in trouble [they] become terribly vulnerable."

While Pryor Cashman is known for its entertainment law practice, the area does not make up a large part of the firm's overall practice. Litigation, corporate, real estate and labor and employment law are strong, and the firm recently added a family law practice as a direct



Ronald H. Shechtman

KUJIRICK KOPSTEIN

result of a spike in trusts and estates law coinciding with the economic downturn.

"We felt by creating a practice of some distinction that we could provide a service," Mr. Shechtman said, adding that many of the larger firms "have given up" on trusts and estates. At Pryor Cashman, the family law group "helps us cross-sell" services to clients who may be re-examining their marriages and looking to safeguard assets, he said.

The ability to spread work across practice areas is another example of the on-the-fly readjustment mid-size practices are geared to handle, said Mr. Davis of Carter Ledyard. "Big firms are staffed so that all of their costs point towards doing large litigation and large transactions."

At Carter Ledyard, the slowdown in transactional work has been buoyed by more work in its real estate, corporate and condemnation practice groups.

Rivkin Radler also subscribes to the philosophy of diversifying business across practice groups, said managing partner William M. Savino. He said the firm is "not overwhelmingly tied to the financial industry or any other industry for that matter."

Known for insurance defense, 140-attorney Rivkin Radler, headquartered on Long Island, has made up for erratic transactional work with increased litigation. The firm has seen an uptick in fraud and contract litigation, said Mr. Savino, who attributed the trend to nervous businesses resorting to protecting themselves in court.

### Flexibility Must Come Into Play

It is essential to understand that clients are facing tight budgets and the reality is, some invoices will not be paid during the monthly billing cycle, partners said. And that is where flexibility must play a role, they say, if mid-size firms are to keep generating revenue.

While Fitzpatrick Cella has not experienced any substantial slowdown in payments, Mr. Cannella stressed that accommodating clients who have a longstanding relationship with the firm is a prudent move for keeping business in-house.

"We are not one of those hard-line firms that says, if you are not going to pay us within 30 days, please shop elsewhere," said Mr. Cannella, who litigates intellectual property cases, along with handling licensing and transactional work. "We are proceeding on the theory that when the economy turns, we will still be able to tell our clients, we are the most efficient shop you can get the kind of work you need from."

Mr. Davis said Carter Ledyard has frozen its rates and offers blended rates—an average of an associate and a partner rate, as an alternative to traditional, more rigid billing methods.

"We are willing to work with clients on billing arrangements—blended rates, discounts/caps with incentives," he says.

Possible billing alternatives offered by Rivkin Radler include extending the time a client has to pay and charging a fixed fee in certain cases. Mr. Savino said that is just "good business" that helps maintain relationships with clients that sometimes go back decades.

And alternative arrangements promoted by 69-attorney business litigation firm Phillips Nizer include fixed fees, partial, or in limited cases, full contingency fees and blended rates, which managing partner Perry S. Galler said are being considered favorably by the firm's finance committee.

"Clients are hurting and we're trying to be as accommodating as possible. We're in this together, working on ways to rebound from the economic downturn," he said.

### The True Meaning of Partnership

A quick barometer of the success of any firm is the willingness of its partners to work together towards a common goal in tough economic times. It is a phenomenon that Mr. Savino said happens when "conscientious partners who exercise common sense pull together in times of unusual circumstances," and lead by example.

"Economic times may change and a business approach may change but what can't change is the drive and the ambition of the people that run it and support it," he said. "At the end of the day, a law firm is a partnership and the strength of this partnership is that if my practice is down, it's strengthened by [someone] else's being up."

A focus on firm culture and fostering a team approach are key to Phillips Nizer's overall success, according to Mr. Galler.

"We don't have an aura of an institution, it's far more of a partnership," said Mr. Galler, who also chairs the firm's executive committee. "People understand that when something doesn't go exactly according to plan and things need to be changed or altered, we are all accommodating."

As an example of workplace camaraderie and mid-size firm flexibility, Mr. Galler cites the case of one attorney who recently spent several days in Washington, D.C., handling a matter that was originated by another lawyer at the firm. Instead of focusing on individual practice groups and statistics, the firm as a whole is what is evaluated.

**NEW YORK**  
7 Times Square  
New York, NY 10036-6569  
Tel: 212-421-4100  
Fax: 212-326-0806

**LOS ANGELES**  
1801 Century Park East  
Los Angeles, CA 90067  
Tel: 310-556-9608  
Fax: 310-556-9670

## Lean and Limber

BY RONALD H. SHECHTMAN

*Managing partner, Pryor Cashman*

In a reverse of the evolutionary cycle, the mid-sized firm has gone from an endangered species to a model for law firm survival: low leverage, lean cost structure and flexible billing models. But none of those attributes ensures survival unless the firm understands that the "entrepreneurial" description is more than a Web site banner.

Few law firms, large or mid-sized, can rely on business coming to their door. Instead, personal relationships and attorneys' stature drive client development. Client retention then depends upon the efficient and effective rendering of services.

At Pryor Cashman, the roots of survival and success follow those principles. Each attorney, associate as well as partner, is coached and encouraged to develop business through contacts and professional activities. Associates receive commissions, and partners' compensation is weighted toward credit for origination.

So many originators have been created that the firm is not reliant on only a few rainmakers. The client base is as diverse as the originators, where no one client represents more than 4 percent of firm revenues. Lawyers

"How a particular department is run is not as important to us as how the whole firm is doing," Mr. Galler says.

Echoing his counterparts, Mr. Davis advocates the "back-to-basics" approach, combining internal leverage, flexibility and a re-focus on teamwork as the way to forge ahead.

"You do the work, send your bills, get your clients to pay you, try to understand your clients' situation and deal with it as best you can."

Several partners said that the poor economy has offered them an opportunity to show new clients what is attractive about the mid-size law firm business model and opened the door to possible business in the future.

### The New Opportunities

Mr. Scherl of Morrison Cohen said his firm has picked up work that higher-priced, larger competitors are now priced out of.

"A lot of the large financial institutions are getting internal mandates to check out Morrison Cohen—general counsels know that we are on the approved list and they know that we are rationally priced," he

don't read the news, fearful that a company's merger or demise threatens the firm's well-being, or fear that any partner's exit takes away a critical share of revenues. In fact, only a few partners have voluntarily left, and four of those subsequently returned to enjoy the entrepreneurial platform to develop new business.

Thus the firm enjoys a culture in which the busiest partners are the first to assist others with business development. The firm's management allows partners flexibility to use billing alternatives to encourage new business. In the end, the business model delivers value to the client by ensuring that the originating partner manages the client relationship and the billing to keep staffing lean and commensurate with the value of the services rendered.

Most important to my own firm's commitment to these principles is every Friday morning, when our partners gather for breakfast, usually with no business agenda whatsoever. There we reaffirm that those who join us at the table are colleagues whom we enjoy, whom we respect for their professional excellence, and with whom we identify in the drive to create business opportunities.

A wizened recruiter once said to me, when we discussed our active lateral recruitment agenda and the independence our partners enjoy, "You guys practice law the way it used to be."

said, estimating that the firm, which handles commercial litigation, tax and bankruptcy, charges around 20 or 30 percent less than the competition. "We don't have to do the billion dollar deals, we are very happy doing the middle market work."

Long Island-based Farrell Fritz is also taking advantage of large financial sector clients looking to cut down their legal expenses by farming out more work to smaller law firms.

The litigation practice of the 83-attorney firm has remained "very solid," said managing partner Charles M. Strain.

While middle market companies—from startups to those with earnings under \$5 million in sales—have been hurt by the reluctance of banks to lend money, Farrell Fritz has gotten its "foot in the door" of some larger clients, giving the firm the chance to show that it can bring "pretty good value and pretty good experience," Mr. Strain said.

Reprinted with permission from the October 19, 2009 edition of the NEW YORK LAW JOURNAL © 2009 Incisive US Properties, LLC. All rights reserved. Further duplication without permission is prohibited. For information, contact 877-257-3382 or reprints@customerservice@incisivemedia.com. #070-10-09-25



**PRYOR CASHMAN LLP**

ATTORNEYS AT LAW

[www.pryorcashman.com](http://www.pryorcashman.com)