

The Law Firm Disrupted

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Dan Packel

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What social distancing means for client development, and a further look at how litigation work may help Big Law keep the lights on as the recession deepens. Welcome to another Law Firm Disrupted from quarantine. Want to weigh in? Email me [here](#). Want this dispatch in your inbox every Thursday? Sign up [here](#)



Staying in Touch in a Touchless World

I'm thinking fondly about my last nice dinner out. It was in the middle of February, at a [Mexican restaurant](#) on the ground floor of a recently opened boutique hotel in Center City Philadelphia. My wife and I were having a rare Saturday night out, and the place pulsed with energy.

Back before our world changed, I was also looking forward to the start of the baseball season. I had tickets to the Phillies home opener, and I intended to bring my four-year-old to the Phanatic's birthday at the ballpark. (All of the other mascots in the city come to celebrate, as does his mother.)

Anyway, this is the kind of stuff that makes me happy, and I miss it. But, I'm not a billion dollar enterprise that's historically counted on person-to-person contact to keep the pipeline full.

Hogan Lovells CEO Steve Immelt told me earlier this week that he too was concerned about the implications of shuttered restaurants and empty baseball stadiums. "Our partners have really done a terrific job of engaging with clients, reaching out in a way that's effective but not obnoxious," he said. But the reality is that traditional mechanisms for building and maintaining relationships, like a good restaurant meal or an evening at the ballpark, are off the table, and there's no telling when they'll be options again.

"I'm a little nervous about how business development is going to work in this setting," Immelt continued.

The global firm took [actions](#) yesterday acknowledging these jitters, cutting U.S. attorney salaries across the board. In a statement, Immelt said that while Hogan Lovells' financial position is solid, uncertainty about the future and a grim global outlook call for caution on expenses.

"At the end of the day, you succeed or fail based on the quality of the lawyers and the work that they do," he added in our earlier conversation. "But not being able to maintain the usual level of contact is different."

Some attorneys might find it easier, however, to stay in touch. Namely,

litigators. McKool Smith principal Lewis LeClair is taking plenty of phone calls. And less than three months into what the International Monetary Fund is calling the "[Great Lockdown](#)," he's finding that while the current crisis is a singular one, when it comes to legal claims, it bears more in common with earlier downturns and less than the Great Recession.

That last recession, which started at the end of 2007, put conventional wisdom about the dynamics of legal work in times of economic retrenchment to the test. Specifically, while firms had historically been able to count on litigation as a crucial countercyclical practice to balance out the decline in deal work, this surge was slow to materialize the last time around.

"There was such a nuclear bomb that went off, but it took people a while to get to the point where they were thinking about litigation. They were just trying to survive," LeClair said. The substantial role of the federal government in providing relief also slowed things down, he added, and the bullseye on financial institutions meant that what disputes did emerge were concentrated in New York.

This time is already different, and more like previous downturns. Based on his conversations with clients, LeClair is certain that there's going to be a surge in litigation across the country in areas like insurance recovery and contracts, with force majeure clauses bound to be in the mix.

"There's just an awful lot of dispute resolution going on with respect to significant contracts already," he said. "Some, maybe many of these will be worked out. But the pace of dispute resolution in this downturn is accelerated from what I've seen before."

Looking beyond the first wave, Kobre & Kim founder Michael Kim told me that he's anticipating a rush of fraud-related claims. With credit cheap, as was the case until the beginning of this year, schemers running fraudulent investment opportunities had little trouble keeping the jig going. But when easy money dries up and investors look to redeem their investments, that's when the duplicity gets revealed.

Also on the horizon: international debtor-creditor disputes, now that a growing number of Chinese banks are lending to the developing world and these banks are in turn dependent on investments from London and New York.

“There are going to be huge amounts of debt defaults that are even more global than last time around,” Kim said. “Unlike 2007, when you had the undisputed key financial markets of New York and London being the center of the world, this time around, the main litigation will involve parties that have nothing to do with the U.S.”

What of litigation finance, which was barely a factor a dozen years ago? Will it further deepen the expected pool of disputes? LeClair is skeptical. “My experience is that good claims get brought. There’s always someone who’s willing to take it on contingency.”

Nonetheless, Big Law litigators, whose shops may have balked at contingency cases in the past, are in position to benefit from the millions of dollars of new money sloshing around, portending a fight between litigation boutiques with an established contingency model and corporate-side firms looking to offset cratering demand elsewhere.

In the News

►► Since we’re talking about restaurants today (I’d like to hear about your last meal out), their significance goes well beyond my own leisure-time interests or even law-firm client development. This New York Times [story](#) identifies their resurgence as crucial to the future of American cities.

►► Back to legal services, the Big Four are a perennial subject of interest over here. It makes my job easier when they’re upfront about what their goals are as they expand their capabilities in legal. Like [this piece](#) from EY Global Law Leader Cornelius Grossmann and former ALM Intelligence analysis Nicholas Bruch. They contend EY is looking to act as an “enterprise legal service provider” for corporate law departments: bridging the gap between legal advice and tech-enabled process support.

►► Finally, my colleague Max Mitchell took a look at how the coronavirus has fueled an embrace of [litigation support technology](#) from the plaintiffs’ bar. The changes are likely to last even once COVID-19 is in the rearview mirror, whenever that finally is.

Wash your hands, keep your distance, try your best to stay sane, and you'll hear from me again next Thursday. Thanks again for reading, and please feel free to reach out to me at dpackel@alm.com. Sign up [here](#) to receive The Law Firm Disrupted as a weekly email.



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