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A Shift That Can Benefit All of Us

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The down economy has claimed countless victims from all corners of global industry.

Some have been quick to observe that large corporate law firms, once believed to be impervious to the gyrations of business cycles, are among the more recent casualties of the current financial decline. Because of their diverse practice mix, corporate law firms have historically prospered in both good times (doing deals) and bad (restructuring and litigating), regardless of their clients' fortunes.

In the current recession, however, business levels have declined significantly at most top-tier firms. Nonetheless, reports of the demise of "BigLaw" have, in the immortal words of Mark Twain, been greatly exaggerated.

To be sure, there has been a long-overdue paradigm shift in the relationship between law firms and their clients. Courtesy of the economic slump, law firms know clearly, if they didn't know before, that they cannot be successful without truly providing value in their clients' eyes. Hence, many aspects of the law firm business model that created tension between law firm interests and those of their clients are rightly being reinvented.

For example, instead of charging clients for each hour of billable work, law firms and clients increasingly are turning to more creative alternatives to the standard fee arrangement. According to a recent survey by Altman Weil, 27 percent of in-house legal departments indicated that more than ten percent of fees paid were based on non-hourly billing arrangements in 2008; the number of corporate legal departments utilizing such arrangements this extensively is expected to jump to 43 percent in 2009.

For some years our firm has offered alternative billing arrangements where we put "skin in the game," providing services at reduced rates with the potential to earn success fees if, for example, we are able to bring potentially protracted litigation to an early, favorable conclusion. More recent alternative fee arrangements go



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even further in rewarding law firm efficiency and making legal spending more predictable for clients.

In addition, law firms are re-examining how they recruit, train, staff, and charge for entry-level lawyers, knowing that clients often feel they are paying for training our newest associates. Among the new approaches for developing junior associates' skills are assigning them to pro bono matters and other work for which clients aren't charged, effectively shifting training costs to law firms. But the sine qua non of this evolving paradigm is consistent and open dialogue between clients and firms. These changes can create value on both sides only if there is trust at all levels of the law firm-client relationship.

Beyond embracing this changing business model and renewed emphasis on efficiency as well as excellence, it is equally important to acknowledge the very qualities that have made law firms a vital part of the commercial landscape and refocus on what is good. For years, law firm lawyers, by virtue of their breadth and depth of experience and unique perspective as noncorporate employees, have been able to serve their clients well as trusted advisers.

Without billing for each and every hour of their counsel, truly great corporate advisers go far beyond providing technical legal advice;

they are able to offer guidance regarding what is wise. These respected confidants are all the more important to corporate executives today, in light of the global recession and impending cascade of legal and regulatory challenges. Now more than ever, trusted advisers can and do serve as sounding boards, creative problem solvers and thought partners for corporate leaders.

Additionally, law firms have long been the guardians of the "rule of law" both at home and abroad. While we often take the sanctity of contracts for granted, law firms have dedicated significant nonbillable time to fostering commercial environments in emerging economies that are at least predictable, whether or not fair by U.S. norms.

For example, by expanding globally in places such as Beijing in tandem with our clients, our firm has been able to arm the executives and businesses we advise with the tools needed to navigate evolving legal systems, thus contributing to the growth and stability of global investment. Our global growth has been an important means of providing a vital client service. And at home, through pro bono work, large law firms are uniquely situated to advocate for adherence to the rule of law on behalf of those least able to enforce their basic human rights and to hold our nation and our government to the high standards envisioned by our nation's founders.

In the end, both law firms and their clients will succeed by welcoming the changes to their relationship that better align their respective interests, without losing the benefits of independence and perspective that outside counsel bring to the table.

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