

The Coming Downturn: Hope for the Best, Prepare for the Worst

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July 1, 2019 is a day for business leaders to celebrate. On that date the current U.S. economic expansion will enter its 11th year and become the longest expansion in the nation's history. Ironically, this milestone is also one reason that many business leaders are feeling cautious about the future. Most have personal experience with at least one of the prior recessions and few believe that any expansion can continue forever.

Scan the business trade press over the past 18 months and you will find many articles citing concerns about a looming recession as a recurring theme, although the projected timing varies. For example, *The Wall Street Journal* recently reported on a survey of 800 global CEOs who identified fear of recession as their leading external concern for 2019, while attracting and retaining top talent was their leading internal concern. (See "CEOs Say Recession Is Top Worry for 2019"; Lauren Weber; *The Wall Street Journal*; January 16, 2019.)

It is not surprising then that many law firm managing partners and CEOs are also feeling wary about the future. The most proactive leaders included preparing for a downturn in their 2019 budget planning process. The wiser leaders have defined contingency plans that could be put into effect quickly and are carefully monitoring financial performance to assess whether and when to activate them. Still others quietly implemented concrete measures to proactively "trim the sails" responsibly by protecting revenue and managing costs. This article will explore what firms are or could be doing to prepare for a recession.

Emphasizing Matter Profitability

The past decade has seen law firms investing in improving their pricing and budgeting disciplines. Many have created formal pricing organizations led by directors or C-level leaders and have invested in tools to support those organizations. The most successful have also invested in training lawyers to promote awareness and adoption of best practice pricing approaches. Firms (regardless of size) worried about a recession are ramping up their investments in these and other areas. They are increasing their level of scrutiny during new matter intake to satisfy decision-makers that a matter will be profitable before taking on the work. They are also being more rigorous about holding practice groups and individual lawyers accountable for creating matter budgets, negotiating profitable pricing, communicating with the clients, and managing the work to perform within those budgets.

Promoting Client Retention and Growth

In the past decade, many firms have made significant investments in people and technology for marketing and business development. Firms preparing for a downturn are being thoughtful

about the best ways that marketing and business development can help protect or grow revenue and are ensuring that these activities are funded appropriately. More attention is being given to client planning than in previous years. This emphasis will protect the firm's revenue base. And in a downturn, this emphasis is particularly important.

According to Wharton's Marketing Professor Jonah Berger's extensive research on what drives services and products to catch on, it's word of mouth. In the legal world, more than 80% of business comes from existing clients — either new business from a client or new business through a client recommending the firm to others. This may not seem surprising. What is surprising is that, while we have read about this and heard about this non-stop in the marketplace, partners are reluctant to get out and talk with clients. Every client works with more than one law firm. When a recession occurs, clients will look to cut back where they can on outside services. The firms with which the clients have the best relationships will be their top picks. To prepare for a recession and to ensure client retention, visit clients and strengthen the relationships. To facilitate this, provide the proper training so partners are comfortable getting out to speak with clients. For those clients which comprise 80% of the firm's revenue, consider:

- Do we know the client's business strategy and key goals?
- Are we in at the client with 3 or more practice areas? (Research shows that three practice areas or more almost guarantee the client will not go elsewhere for legal work.)
- Do we know the challenges the client is facing with their business?

Answers to these questions will provide opportunities to align with the clients and to provide value and anticipate legal needs. These stronger relationships will help carry the firm through any downturn.

Implementing Business Development Investments

Firms are wise to review their inventory of marketing and business development tools and resources including client relationship management software, social media, web sites, association memberships, conference sponsorships and attendance, and other areas of moderate to large spend. A review of return on investment (ROI) in these areas will show not only the spend but also the benefits received. Many firms conducting these reviews are realizing that this scrutiny helps to realign resources and efforts and to make more informed decisions about future spend. Firms focusing on the potential downturn are also focusing on effectively implementing the resources they have or cutting them if they are ineffective.

Re-Focusing Knowledge Management

Providing outstanding service is critical to client retention and client growth. Firms that have invested in strong knowledge management (KM) programs recognize that successful KM helps lawyers improve the quality and timeliness of legal services. To prepare for a recession, these firms are not slashing their KM budgets as some did in the last downturn. Rather, they are re-examining their KM efforts to ensure that their KM people and technology are laser-focused on

profitable service areas and clients. To achieve this, they are tackling the very difficult task of assessing the return on investment for specific KM initiatives. They are considering scaling back or discontinuing under-performing efforts that distract resources and attention from more successful areas. With this they are taking on the tough political task of denying some partner requests for KM services when the business case does not justify the investments.

Right-Sizing Staffing

Payroll is one of the largest components of law firm spend, along with real estate and insurance. For the people on the payroll, including lawyers, it is also the most flexible of these components. Therefore, firms anticipating recession are already acting in this area. While there are not yet public reports of staff layoffs, some firms are tightening the reins on hiring, adopting a limited or zero-head-count-growth policy for 2019. Others are leveraging their outsourced service providers for more office services, so they can scale down quickly should the economy turn.

Progressive, tough-minded firms are even including lawyer ranks in these decisions. According to Altman Weil's 2018 "Law Firms in Transition" survey, "49% of law firms failed to meet their annual billable hour targets in 2017; 51% of all firms say their equity partners are not busy enough; 59% of firms report non-equity partners are underutilized; and 83% of firms report that they have at least some chronically under-performing lawyers." In an early move to address these issues, some firms are setting more stringent minimum billable hour standards at the practice group and individual lawyer level and are more stringently enforcing the standards for under-performing individuals or groups. Mike Short, Principal of LawVision, praises these firms by saying, "It is easier for firms to counsel lawyers out now, in a good job market, rather than face the angst of letting lawyers go during a downturn."

Conclusion: Improving Profitability by Acting Now

Law firms that are acting in 2019 to prepare for a downturn are certainly experiencing some degree of pain. They may also be facing internal resistance by those who would prefer to believe that this cycle will be different, and that the economic expansion will continue for many years ahead. The good news for firms acting now is that all these measures are really incremental improvements. They are more rigorous adoption of sound business practices that can only improve law firm profitability under the very real market pressures that emerged following the last recession. Therefore, law firms acting now can only benefit in the long run, irrespective of when, or if, the next recession hits.