

CREATING A RECESSION- PROOF PRACTICE



THE CORE ASSET: PERSONNEL

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Did you ever hear it said that the practice of law itself is recession-proof because, after all, no matter what the economy, people will always need lawyers? Such a notion is at the same time correct...and not so correct. True, people will always need lawyers, but the real question is: for what? Some areas of the law are simply more recession-proof (or perhaps merely 'recession-resistant') than others. We will take a look at practice areas—and law office business practices—that can help shield your legal practice during a recession.

Not Too Big—or Venerable— To Fail

The Great Recession of 2008 took its toll on many businesses and professional practices, including legal practices. 118-year-old Heller Ehrman, LLP, was an international law firm founded in San Francisco in 1890 that had 15 offices in major financial centers around the world, employing over 700 attorneys, before it filed for bankruptcy in September 2008. Whether the collapse was really due to the economic pressures of the recession or the sudden flight of numerous IP partners to a competing firm—coupled with the crumbling of merger talks with another global firm—remains unclear, but the timing indicated that the recession, at the very least, was a significant factor.

Then came the COVID-19 pandemic with its own set of economic disrupters, further challenging the notion of law being a recession-proof profession. Even if the Heller Ehrman fall had extenuating circumstances alongside the receding economy, at least five other major U.S. law firms also went under during and just following the Great Recession, indicating that clearly, no legal practice is 100% immune from a domestic or global recession regardless of cause.

Why Some Practices Fare Better Than Others

But some practices, in fact, thrived during the recession and its slow-recovery aftermath. This, of course, begs the question of what distinguishes a more economically vulnerable law firm from one that can withstand just about any economic upsets. Experts point out that while some practice areas are clearly more market-sensitive, others remain unscathed even in the worst of times. The real estate market, for example, is clearly cyclical, and any firm that is fully or largely concentrated in a real estate practice is going to feel the impact when that market goes through a traumatic downturn, whether due to mortgage rates reaching 'wait and see' levels, or lenders becoming skittish over falling asset values.

IPO and Startup practices are similarly at risk when venture capital, angel funding, and other types of risk capital become restrained during a recession. Lawyers who service clients in the restaurant, hotel, and entertainment business sectors will likely find that as business slows for those industries, the business will likewise slow down for their lawyers. But surely, there are practice areas that are pretty much immune to such market pressures?

“YOU NEED TO BE ABLE TO GET LEAN ON DEMAND. THAT’S REALLY THE KEY TO SURVIVAL. NOT INVESTING IN [TECHNOLOGY] WILL HAVE A DETRIMENTAL IMPACT FOR LAW FIRMS, NOT JUST BECAUSE OF A RECESSION BUT ALSO FROM BUSINESS CONTINUITY RISKS.”

— Tariq Akbar, CEO of LegalEase Solutions

Where to Be in a Recession

Some lawyers will always be in demand. Take, for example, bankruptcy and reorganization practices. They not only tend to have a steady workflow year-round but actually come to be in greater demand, specifically during an economic downturn. That certainly makes sense, as does the rise in demand for tax settlement lawyers and those who represent both sides in contract default matters. Employment law practitioners also see an uptick when companies need to be advised regarding layoffs or how to handle a sudden rush of unemployment claims. A poor economy ups the demand for all of those.

But are there practice areas that remain consistent, not swinging with the economy? One area that comes to mind is Estate Planning. The need to organize one's estate and plan for the inevitable is not dependent upon economic sways. Those who represent healthcare providers and insurers are also consistently kept quite busy regardless of the overall state of the economy. Although financial services themselves are likely impacted by a recession, their need for lawyers is an ongoing one not subject to fluctuations in a recession.

The Balancing Act

In an era where more and more practices are, in fact, focused on a niche—and, as noted above, an often vulnerable one—as opposed to maintaining a general law practice, the lessons learned from 2008 and the pandemic teach us that, as with any investment portfolio, diversification is key. This isn't to say that a firm that is

known for a particular specialty suddenly needs to go out and build up a variety of diverse practice groups; however, being at least somewhat diversified in 'recession-proof' practice areas as a hedge against the woes of a recession is nevertheless highly recommended.

Mind Your Business Practices

It is not just practice areas that need to be considered carefully, but also business practices. Some of the biggest firm crashes during the recession were the result of carrying way too much debt under the mistaken belief that cash flow would always be adequate to service that debt. Such a mistaken belief has now been re-evaluated by much of the business sector and not just by law firms. Likewise, staff expansion and acquiring new technology systems when the economic forecast would dictate otherwise are not business-savvy moves.

While ethical considerations might limit the extent to which a lawyer can pick and choose his or her clients, no such restraint is placed on which market the sole practitioner or firm—within the scope of their qualifications—can pursue. With that in mind, plan to keep some 'extra-legal talents' in reserve for a rainy day.

Executive Summary

1. The Issue

What steps can a lawyer take to recession-proof a law practice?

2. The Gravamen

Some practice areas are considerably less at risk in a downturn economy, and the practitioner who is concerned about the next recession should carefully weigh those options.

3. The Path Forward

Whether via a change in focus or through practice diversification, now is the time to examine what your vulnerabilities might be in the next recession.

Action Items:

1 Efficiency Analysis:

As a first step, take a close look at where your firm might be able to run leaner even in a good economy rather than wait until the need to economize becomes critical.

2 Flexible Payments:

Avoid huge swings in your firm's cashflows by developing payment systems based on monthly or other periodic consistency rather than windfalls. This will not only be better for your firm's financial health but will also give your clients a more affordable way of handling legal spend, especially when money becomes tight.

3 An Indispensable Asset:

If you are an associate, make yourself recession-proof by developing skills that will make you 'indispensable' when the layoff axe starts to fall.

4 Expanded Practice Horizons:

Diversification will serve your practice or firm well even in the absence of a recession, but a fortiori, when a recession hits, the diversified practice will enjoy at least a partial hedge against recessionary pressures.

Further Readings

1. <https://wurzfinancialservices.com/how-to-survive-a-recession/>
2. <https://www.legalmanagement.org/2022/february/features/5-ways-law-firms-can-prep-for-a-recession>
3. <https://www.attorneyatwork.com/practicing-law-during-a-recession/>
4. <https://www.linkedin.com/pulse/transactional-lawyers-your-practice-recession-proof-j-barbagallo>
5. [https://newLawBusinessModel.com/recession-proof-your-law-practice-and-thrive-in-any-economy/](https://newlawbusinessmodel.com/recession-proof-your-law-practice-and-thrive-in-any-economy/)



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After receiving his Juris Doctor degree from The John Marshall Law School in Chicago, Mr. Brochin served as an Administrative Law Judge with the Illinois Department of Labor for six years where he presided over cases dealing with job separation issues and matters pertaining to contested Unemployment Insurance claims. He also co-wrote the agency's administrative rules, and periodically served as a 'ghost writer' for Board of Review decisions. Following that position, he was Director of Development for a Chicago-area non-profit college where he was responsible for High Net Worth donations to the institution. For the next eighteen years he practiced as a solo practitioner attorney with an emphasis in the fields of Real Estate law and Commercial Contracts transactions, and was an agent for several national title insurance agencies.

In 2003 he was recruited to head up a U.S. title insurance research office in Israel, a position he held for four years, and between 2007-2017 he participated in litigation support for several high-profile cases. He has taught Business Law as a faculty member of the Jerusalem College of Technology, and has authored a wide variety of legal White Papers and timely legal articles as a professional legal content writer for GPL clients. Separate from his legal writing, he has co-authored academic articles on Middle East security topics that have been published in peer-reviewed publications.



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William Anderson is Managing Director and Head of Law & Compliance. He leads the GreenPoint practice in providing regulatory, legal, and technology solutions to law firms, legal publishers, and in-house law departments around the world, overseeing our team of experienced US attorneys and data and technology experts. Will has over 25 years' experience working with corporations to improve the management of their legal and corporate compliance functions. Will began his legal career as a litigator with a predecessor firm to Drinker, Biddle LLP. He then served as in-house counsel to Andersen Consulting LLP, managing risk and working with outside counsel on active litigation involving the firm.

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