

THE WORLD TURNED UPSIDE DOWN

by

Smock Law Firm Consultants

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The Impact of the Coronavirus Pandemic (Covid-19) on the Legal Industry

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This monograph presents the results of recent original research conducted by Smock Law Firm Consultants on the impact of the coronavirus pandemic on the legal industry and law firms. We took, as the title for our monograph, the march that Cornwallis ordered played for his surrender to Washington at Yorktown, namely *"The World Turned Upside Down."* We thought it apt for what had occurred in the legal business (and well beyond) since March of 2020.

In order to develop this monograph, we conducted 25 interviews (30-minutes each) of various law firms ranging in size from 18 attorneys to over 1,000 attorneys. We spoke to either the Chief Executive Officer or the Chief Operating Officer (or both) and, importantly, told each firm that we would not identify who we interviewed and we would not attribute any comments or suggestions to a specific firm (or person).

The specific five questions we asked follow:

- How did the coronavirus affect your firm?
- What steps did you take to deal with the impacts on your firm of the coronavirus?
- What did the other firms (in your markets or whom you compete with) do?
- What are the factors you are considering in planning for next year and the near future?
- What were the takeaways, impacts, and strategies you will be considering for the longer term?

Finally, we drew our own conclusions and from what the interviewees had to say.

We should note that, historically, we have conducted similar surveys after the end of each fiscal year to see how the legal market performed and what the major issues were. This year, we moved that annual survey and analysis up into the final quarter of the 2020 operating year in order to provide some input to planning and budgeting (and merely prognosticating) about 2021 and beyond.

Le Caveat

It is important to state a primary caveat before going to the findings. While we ask a wide range of firms for an interview (and we do believe that we have achieved a very good cross-section – size, geography, etc.), the yesses for the interviews do come from those firms that we have either served or know of us. Also, if a firm was truly struggling (and a couple of the firms we interviewed were), we believe there is an inherent reluctance to do a 30-minute interview, when there are a lot of issues on the table to be addressed.

Summary Schematic of the Results

If the reader has worked with Smock Law Firm Consultants before, you know that we have a penchant for boiling an article or a report down to a single page summary schematic (taken from Eisenhower's adage that if you cannot boil what needs to be said down to one page, it is not actionable). That summary schematic is shown on the following page.

THE WORLD TURNED UPSIDE DOWN THE IMPACT OF THE CORONAVIRUS PANDEMIC ON THE LEGAL INDUSTRY SUMMARY SCHEMATIC

How Did Coronavirus Affect Your Firm?

- A very good start in 2020 – “blew the doors off”
- But, by March major shift occurred
- 1/20 and 2/20 very good – 3/20 and 4/20 clearly not good – but, from May on – an unexpectedly good year
- Offices closed, spending stopped (e.g. – no travel, no marketing)
- Remote for virtually everyone
- Activity off a bit after April, but profits up
- “Shockingly pleased with where we are”
- IT folks are the heroes
- Some compensation cut, some furloughing, some people let go – but most rescinded later in the year (except some staffers)
- Culture, communications, and continuing contact areas of focus
- Focus on clients and our own people
- Recognition not nearly as much office space needed in the future
- Some firms grew – very good laterals available (particularly top 50 firm associates)

What Did the Other Firms Do?

- Not a lot of intelligence on competitors’ results – some did not so well, but most ok or better
- All addressed technology issues right away
- “Not too many out of work lawyers”
- Smaller satellite offices probably at risk

Near Term Steps Needed

- Increase number and level of contacts with our clients and our people
- Go back to a focus on effective marketing
- Focus on overall strategy or change it
- Expect growth of profitable legal services in 2021
- Rethink real estate needs
- Pay and rewards refocused specifically on merit, results, and productivity
- Future of litigation?
- PPP may present some issues

Takeaways, Impacts, and Strategies

- Financial – lower expenses and higher revenue still lead to greater profit
- Less reliance on physical space (lawyers can work anywhere)
- Open, honest communications even more important
- Major focus – person to person contact and communications
- Where should our offices be?
- Price competitiveness in play on a much broader paying field
- Recognition that in most firms, the IT people saved firms’ collective butts
- Millennials appear to have had an epiphany
- While Zoom still valuable, bloom off rose
- Midsize firm can compete with larger firms
- Travel has changed forever (business and pleasure)
- Internal commitments to firms may be weakening

SLFC Thoughts and Comments

- The legal marketplace seems to have survived the pandemic quite well – professionally and financially
- Gloom and doom predicted – did not happen
- Efficacy and effectiveness of the vaccines should benefit attorneys (as well as many other people)
- Firms hurt in the pandemic went into it with some weakness (like a co-morbidity)
- 2021 should be a great year for well run client focused firms
- Some changes – more working from home, more office-to-office work sharing, real estate to change dramatically
- Client and people foci do work

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How Did the Coronavirus Affect Your Firm?

The coronavirus significantly affected every firm interviewed (and we can safely venture, every law firm in the United States, if not worldwide). And it happened pretty darn quickly. There was some pullback in early February (and back then, no one really knew what the impact would be – how it would affect the firm, its people, and its clients) – but by early March the legal marketplace and, for that matter, the overall economy had changed dramatically.

- To a great degree, the economy locked down very quickly and that lockdown directly affected law firms. In early February 2020, few, if any, could have gauged the impact. By early March, much of the economy had come to a screeching halt, travel was locked down, most courts were closed, and few, if any experts (including Drs. Fauci and Birx) had a game plan (remember the argument among these experts – not the politicians – as to whether face masks should be worn or not).
- For many law firms in 2020, *“the first quarter just blew the doors off.”* However, the second quarter was the most significant fall off in work (and, for that matter, morale) ever felt.
- The most significant initial impact on law firms is that they had to determine – and very quickly – how they could operate with essentially no offices (in other words, practice law successfully and do business remotely). In many ways, firms’ technology people were able to structure systems and hardware to operate in that environment and to get everyone in the firm communicating effectively from home (Zoom, yes – but also a lot of other bits and pieces).
- For many (and probably, most) law firms, the financial and professional future looked very bleak in March and, also, on into April and May.
- A number of things affected most firms in the second quarter – spending stopped (e.g. – for example, marketing expenses and travel costs), many firms furloughed non-essential people, some staff were actually let go (but, in the long run, very few), and, for a number of firms, the positive trends and activity from 2019 dramatically slowed down or ceased (*“we raced to the bomb shelter and stayed there”*). A large number of firms cut compensation (primarily at the partner level) and there was real concern as to whether they would be sufficient work for the rest of the year for practices (and, in some cases, firms) to stay in business.

But things changed for most firms later in the second quarter. Many firms’ activity stayed very strong in the second quarter and other firms felt a dramatic and significant uptick.

- Surprisingly to many firms, activity did not continue to drop – and for wide range of firms, activity picked up dramatically, most people stayed busy, and business results (\$) clearly picked up. If the practice activity did not fall or was just a little bit off, profits clearly picked up, as *“expenses had been cut to the bone.”* The broad range of firms we interviewed (and, we believe, the broad range of firms across the legal marketplace) learned how to operate from remote locations, interact, communicate, and serve clients (many of whom were operating from similar remote locations). To paraphrase a number of the firms we talked to, *“we will have a very good financial result for 2020 – we stayed busy, clients paid generally on time, and we cut expenses.”* And, as said by one firm, *“all in all, we had a great year – we were very lucky to be selling a generally needed and valued service.”*
- *“We are shockingly pleased with where we are – we are going to have a very, very good financial result this year.”*
- *“We organized for the worst-case scenario (or scenarios) and, simply, they never came about.”*

Not a lot of concerns were mentioned in the interviews – but two deserve comment – (1) a lack of sufficient contact and interaction with clients and (2) a similar lack of sufficient contact and interaction with the firms’ own people. There is general acknowledgment that 2021 will have to see significant improvement in both these areas.

What Steps Did Your Firm Take in Response to the Coronavirus Pandemic?

All of the law firms interviewed took a number of steps to deal with the pandemic and its impact on the firm itself, its clients, and its people.

- First, virtually all law firm offices were closed or had their office-based functions very, very limited. Attorneys and staff began to work from home or some other off-site location. All meetings became online, as did administrative functions. Many of these offices are back open again, but the vast majority of those openings are limited in scope and attendance (25% of capacity was the number we heard most often).
- Those who were eligible took advantage of the Small Business Administration's PPP (Paycheck Protection Program). All of the firms that we spoke to, except two, that fit the criteria did apply and were accepted. Those two had solid reasons for not doing so and were not harmed that greatly. We respected the reason for the two firms that did not take PPP, but our overall conclusion was that taking advantage of this program was a fiscally wise move for the firms that did.
- Virtually all the interviewees mentioned the attention paid to technology to ensure that business could be conducted remotely – both for client service and running the Firm. *"We had to and did replicate our individual attorneys' technology that they had in their offices for their homes."*
- Since no firm was able to foretell that generally the coronavirus and its impacts were not going to provide unlimited and fatal damage, a number of near-term disaster prevention steps were taken. Where possible, costs were dramatically cut (most notably in marketing and travel). All other costs were looked at (in virtually all firms). Some people were furloughed (generally at the staff level) and, in some cases, positions were eliminated (although not that many). We should note that most firms brought those people furloughed back as the year went on. Also, some firms recognized that they did not need the complement of support staff that they had previously and so they cut back to a more efficient level. We should note that other firms did not lower their staff numbers and felt that was a particularly important and appreciated step. In many cases, partner compensation (or some of it) was deferred until results were better known – but most firms expected to be paying partners their full budgeted (or greater) amounts this year, based on results.
- Culture and communications were very important. Many firms initiated frequent Zoom meetings and interchanges (e.g. – once a week staff meetings, practice meetings, office meetings, etc. – in most cases, considerably more of these meetings than before. Many firms were able to put together multi-office teams to serve clients and to focus on industry needs. With technology, everyone was in the same office. *"We tried to achieve a logical balance and did not overreact or freak out when everything did not work perfectly."*
- Of particular concern were client communications. Since firms could not meet in person with their clients, they initiated a number of calls, follow-up, and other related communications.
- One firm mentioned that *"we went back often to our strategic plan and actually did a lot more of what we said we were going to do – and it worked."* However, most firms that brought up their strategic plans thought the coronavirus caused changes meant that they had to take a close look at what they wanted to be and why – and, very importantly, what they were going to do to get there.
- One thing that became evident in this analysis of costs is that most firms had more space than they needed now and, very importantly, for the future. A number of firms initiated discussions with landlords (or continued ones that were already underway) with the desire, long term, of reducing space and the cost of offices. There was a recognition that individual offices – in the future – are going to be considerably less important than they have been historically.

- Some firms actually grew in terms of practicing lawyers. There were a number of highly qualified lateral partners and associates available in the marketplaces of the interviewees. As said in different ways, *"a number of associates from top 50 firms were available, we hired them, and they have added much to our attorney complement."*

What Did the Other Firms Do?

We also asked the firms we talked to how their competitors did.

- There was not a lot of knowledge or specifics (as can be expected), but a recognition that their competitors were probably doing the same things they were doing, because there were not a lot of options available (i.e. - furloughs and some layoffs, closing of offices working remotely, concern about communications, PPP, etc.).
- There was a general feeling that their better competitors had mastered or were well on their way to mastering similar technology issues and were meeting client needs in the same ways.
- One comment made is worth repeating – *"our competitors are probably doing pretty darn well - after all, there are not too many out-of-work lawyers out there."*
- There was a general belief that their competitors' smaller, satellite offices were probably suffering a bit from a fall-off in work and/or people. But there were not a lot of specifics to back that up.

What Are the Near Term Steps You Should Take and What Do You See on the Horizon for Next Year?

We asked two questions about the future – the first, a focus on next year and the near term future and, in the following section of this article, the longer term lessons and issues.

- The most mentioned and agreed-upon significant near-term need was to increase the number and level of contacts and the effectiveness of those contacts with clients and potential clients, as well as the firms' own people. *"Zoom can only go so far" and "we have to go back to marketing and calling on our clients, being considerably more active in that regard, and rethinking our strategic future."*
- As part of expanding and improving client contact, most firms expressed a desire to focus on effective marketing for client retention and expansion and, probably, a new overall strategy to direct the firm in this different marketplace. *"We have not focused on our strategy, most of our partners do not know what it is, and, if anything, this pandemic certainly changed the playing field."*
- A number of firms expressed a reluctance to either acquire a much smaller firm or open cold in a new market. They would like to make strategic acquisitions, but ones that would clearly have an impact on their overall marketplace. Certainly, the skills learned in remote lawyering can allow for attorneys anywhere. So if a bright, capable attorney is available in another city, she/he can be integrated into the firm without having to make an acquisition of unneeded attorneys. Geographic offices are becoming less and less important.
- Most of the respondents felt the 2021 would be a very good year assuming the pandemic will abate and the need for legal services continues to grow. However, there was no voiced feeling that a real market changer is right over the horizon.
- Another voiced high-level need was to rethink the firms' real estate needs in light of what has been learned in the pandemic, the recognition that many (or most) of the people will not be working regularly from an assigned office in a center city where the firm practiced. *"What did we learn from working remotely and how will that impact how we work in the future?"*
- *"We will be adjusting how we pay and reward people, both our attorneys and staff." That pay and rewards will be much more merit and productivity based, which is clearly favored by the most productive attorneys and staff.*

- A number of interviewed firms brought up the term concern about the future of litigation. Filings are down, courtrooms are not open, and active litigation, as a corporate strategy, may not pay the returns that it has in the recent past.
- And finally, participation in PPP presents near term issues. A lot of law firms took it (it was generally an easy process to do so), but the rules may be changing and there may be some shifts in how it is viewed and administered, not to these firms' benefit.

What Are the Takeaways, Impacts, and Strategies from the Coronavirus Pandemic and Law Firms' Reaction?

Finally, we asked each of the interviewees what they thought the longer term takeaways, impacts, and strategies were coming out of the coronavirus pandemic, the impact on law firms, and the legal marketplace reaction. These follow and we apologize for the long listing, but the interviewees did directly state these – in many cases, over and over again

- The first is financial. Law firms learned (or relearned) that lower expenses lead to better profitability and, probably, also learned again that increasing revenue is an even better determinant of profitability than expense control.
- Across the practice of law, there will be considerably less reliance on physical space – two obvious examples, law firms' offices and courtrooms.
- Open, honest communications were truly valued throughout this difficult period. Those firms that were better at it, probably did better overall.
- Law firms near and longer term investments in technology will continue to grow and be an even greater determinant on a firm and its attorneys' success.
- The long-term is becoming an even shorter and shorter time factor. A year ago, no one other than medical professionals had any idea what coronavirus was or could be and the dramatic impact it would have.
- There will be much more focus on people, clients, and industries and less reliance on offices. If a firm's clients are prospering, so will their law firms, regardless of size and location.
- Communications in the legal marketplace have changed – there will be considerably more electronic meetings with clients, practices, office teams, recruits, and marketing. In that regard, every firm will probably need an electronic marketing plan and budget.
- As technology becomes more and more important in internal communications, recruiting, and, importantly, marketing, the need will also grow for increased person to person contact. There was a law firm CEO in our survey last year (before the coronavirus hit), who stated that he had contacted (physically) 100 clients in the prior year. He is ahead of the curve, not behind it.
- Where and how our people (attorneys and support) office is a brand-new set of decisions. People are no longer used to or willing to make the long commute to a city center. They are out of the habit and the services to get to and from there city centers have probably atrophied dramatically (e.g. – commuter trains).
- Although most firms have changed the way they communicate internally, Benjamin Franklin's adage that *"we must stand together, or most assuredly, we will hang separately"* probably fits law firms even more than it did.
- Firms need to continue to emphasize (perhaps overemphasize) the excellent communications with their people – obviously, technology will continue to play a key role in doing that.

- A number of firms believed that the uncertainty of the coronavirus, and the difficulty that all firms had dealing with it, put the mid-level, not-as-productive partners at risk. Maybe that is a good thing, because a number of interviewees thought that those mid-level partners recognized they had to work harder and perform better for them to continue to be a key (and well compensated) part of a firm.
- Because of the mixing of geographic markets and the utilization of attorneys from lower rate markets, it was the feeling that price competitiveness was now in play – for instance, *“we do not want to pay \$800 an hour for associate where we can get the same talent (located elsewhere) for less than half of that.”*
- We heard from a number of firms that the millennials had an epiphany - they now know that their future depends on a (professional and financial) strong connections to their firm and the ability to perform to expectations with regard to that connection.
- In a number of firms, there was the clear recognition that the technology/IT people had saved their firms’ collective butts and enabled them to stay in touch with clients and people.
- Another interesting perception that we heard a number of times – *“bricks and mortar have been an anchor to us and our competitors - it has become obvious to many that firms need considerably less than they now have.”*
- The administrative assistant job – to a great degree – has disappeared. What has or will replace that position?
- A number of firms expressed concern about the future of law school hiring. Some highly qualified attorneys were available on the lateral market and so why would a firm really consider a true rookie at such a high price.
- Zoom (and some interesting competitors) have been invaluable in maintaining internal and external communications. But the bloom is somewhat off the rose – people are becoming tired of Zoom. The sign that a couple of interviewees brought up was that more and more of meeting attendees are not “showing themselves” in the Zoom conferences. In other words, they remain invisible with only their names in their square. If that is a true trend, it is probably a dangerous one.
- Many midsize firms have found out that they can compete with much larger firms, if they can demonstrate capability and value. Being the largest firm in a specific geographic area is no longer that important. Clients keep evaluating the relationships and value (results/cost) factors in making decisions about which firms to retain. In that regard, clients’ legal department budgets continue to go down (remember companies were also impacted greatly by the coronavirus).
- While many firms (certainly most of the firms that SLFC interviewed) did quite well, it stands to reason that others did not. Thus, the universe of qualified, productive laterals is probably broader than has been in a while. If a firm does not do well and it does not look like it is going to do well, in many ways, the laterals are ripe for the picking.
- There are a number of expected changes as a result of the impact of the pandemic on the legal marketplace – first, travel will change forever (there will simply not be nearly as much of it); the commercial real estate market (not just law firms) is heading for major changes, there very well could be a lot of money lost in the next year or two; for variety of reasons, partners will retire faster; and the continuing and growing importance of technology cannot be diminished.

- There has been a realization, across the law firm market, that going into this coronavirus, most law firms were overstaffed. That overstaffing has clearly come down and more than likely, certainly for the near future, will stay down.
- We heard an across-the-board lack of interest in hiring young lawyers out of law school – *“we do not have to hire real rookies, we can get more talent for less with experienced laterals.”*
- Mentoring, formal training, and informal advice are considerably more difficult when people are not in the office – so, a generation or two of associates do not have the relationships internally to learn as well as they could or used to. Many felt that issue had to be overcome in some way coming out of the coronavirus.
- While there is a wide belief among attorneys interviewed that there are a number of very qualified lateral attorneys available, that indicates that the commitment of lawyers to their law firm is deteriorating. Firms need to recognize that they will probably lose some good people just as they will gain some.

Smock Law Firm Consultants’ Thoughts on What We Heard (And, What It Means)

In many ways, the coronavirus pandemic has changed the legal marketplace (thus, the title *The World Turned Upside Down*). Some of our thoughts related to what we heard from the interviewees follow.

- Yes, there has been a lot of change as a result of the coronavirus. But, based on what we heard in the interviews (as opposed to the articles we read as background - downers), the legal marketplace, law firms, and lawyers seem to have survived quite well. Yes, there is uncertainty for 2021 and a wide range of concerns relative to what will happen next, but the law firms we spoke to (the great majority) feel there are doing quite well and are generally upbeat on their future. The articles we read as background can best be described as “gloom and doom” (the end of the world scenario). These supposed experts (our competitors) were telling law firms to begin planning significant additional cuts in personnel, compensation, and to be prepared for significant cuts and for what might be called a nuclear winter. As things have shaken out, that nuclear winter does apply to gyms, barbers and hairdressers, commercial real estate developers, bars, and restaurants, but not to law firms.
- Simply put, many, many law firms appear to be doing well (across a wide range of indicators) and that success can be expected to continue and, possibly, expand and grow. While we are not prognosticators, it is apparent that the efficacy and effectiveness of the vaccines in the pipeline will change the coronavirus pandemic greatly. Probably every industry and certainly the legal marketplace will not make a full recovery to what it was, but it appears that there will be significant change in the next few months, most of it positive.
- There will be changes that can be traced directly to the pandemic. More and more attorneys and staff will be working - at least part-time - from home. There will be considerably more work shared from office to office and clients will be dealing with multiple offices of their law firms (and probably not know which attorney is in which office). Real estate will change dramatically - offices will be considerably more uniform (in size and function), the amount of space taken per practicing attorney will drop, and, with the exception of litigation, there will be little need for large downtown office locations. Location will be less and less important and industry expertise more so.
- Those firms that the pandemic really hurt were similar to the at risk individuals catching the coronavirus. They had problems that were above and beyond the coronavirus and served to exacerbate that virus. Simply put, it looks like the healthy firms made it through quite well and the less than healthy firms were or are now the ones at risk.

Finally, we believe 2021 will be a very good year for the legal profession and particularly for the well-run, client focused law firms. **We hope we are not proven wrong!**

Brief Description of Smock Law Firm Consultants

John Smock founded Smock Law Firm consultants in 1991. The Firm provides management consulting services in the areas of strategic planning; mergers, combinations, and acquisitions; overall management; and high-level financial management. Prior to SLFC, John was a partner at Arthur Young and headed up that then Big Eight Firm's national general management consulting practice (which included the medium-size business practice, the legal management practice, and the international strategic planning practice). With AY, he was stationed in Chicago, Houston, New York, Tampa, and Washington. Prior to Arthur Young (which he joined in 1976), John was a senior consultant with Cresap, McCormick, and Paget, a national and international strategic management consulting firm. John was a regular officer in the United States Navy and served on destroyers, destroyer escorts, and riverboats in Vietnam.

Peter Giuliani was also a partner at Arthur Young and directed that Firm's New York Metropolitan law firm consulting practice. Subsequent to Arthur Young, Peter was a partner and CFO of a leading law firm management consulting firm and, importantly, COO of a major Connecticut law firm. Peter and John were colleagues and good friends at Arthur Young, worked on a number of assignments and activities together, and Peter joined Smock Law Firm Consultants in the late 1990s.

When the coronavirus pandemic hit, John and Peter were working on a variety of assignments, focused on law from combinations and strategy. As with most law firms, our work came to a screeching halt when the pandemic hit. However, unlike most law firms, our work did not pick up dramatically in the second quarter of the year. While Peter stayed busy on some assignments he was conducting, John kept busy chairing a charitable golf outing for the Charleston Symphony. As we looked at what was happening in the legal marketplace, we felt it important to get as much of the "*straight skinny*" to our clients and friends to help in the decision-making process. Also, it gave us an opportunity to reintroduce ourselves to our clients and friends in the legal marketplace. So yes, Smock Law firm Consultants is back in business - please call if we can help.

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