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The Economy has Changed - InHouse Law Departments are Changing - Law Firms You Need to Change Too. Exhibit A: Howrey LLP

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Lead, Follow or Get Out of the Way. attributed to Thomas Paine

Lead Me, Follow Me, or Get Out of My Way. *General George S. Patton*

Much has been written lately about the demise of Howrey, LLP. Reasons cited for the downfall include: alternative fee arrangements, discovery outsourcing and the decline in overall litigation. As a former in-house counsel, I had a few cases with them and always found them to be very effective litigators. Howrey's emphasis on litigation, according to some is the main reason of their demise. From the Wall Street Journal's Law Blog March 9th:

> Howrey, which once employed as many as 750 attorneys and uses the slogan "**In Court Every Day**," had built what many corporations described as "go-to" litigation and intellectual property practices in the U.S. and Europe.

A former general counsel highlighted the 'over effectiveness' of Howrey's - In Court Every Day motto, but he may be missing a bigger business trend:

> But here's the problem: clients may want to hire lawyers with deep litigation experience. I am very confident, however of the following:
>
> Clients **do not** want to be in court every day.
>
> Sometime in the last five years or so, most general counsel came to a realization: **all litigation is bad**. Some is worse than others, and some necessary for a while, to be sure. A

> bottom line for litigation is emerging: **you don't want to be in court and if you are you want to get out fast**. . Howrey 3: When is a Law Firm Brand Too Good? - from John Wallbillich of Wired CG.

Many general counsel have believed for some time that litigation is often a resource drain. **The change is that many C-Level Managers now understand the time, cost, and often slim chance of collecting on a judgment even if you win often involved with litigation.** Blame the economy for this increased scrutiny by businesses on legal expenses vs. financial outcomes from litigation.

Competitive businesses have to look closely at all major expenditures, including...**Alert the Media** legal costs. Inside counsel have to explain their costs, perform cost benefit analyses, and provide detailed budgets to executives. Guess what happened along the way, business demanded that the law firms they retain be run like .... businesses!

- Businesses that had project mangers on staff for years began to wonder why their law firms didn't.
- Businesses that had to devise thier own internal litigation budgets questioned why their litigators seemed reluctant to do so.
- Businesses that had to estimate costs and develop estimates for their clients began to wonder why law firms weren't willing to shoulder some of the estimation risk too.

There will always be situations where companies need good litigators, maybe just not as many as they did before. Which brings me back to the other reasons frequently mentioned for Howrey's demise: alternative fees and the advent of third-party discovery vendors.

Alternative Fees & the Advent of Third Party Discovery Vendors

Alternative fees and discovery vendors are just low hanging fruit. In the aptly titled blog post: A BS Detector's Review of the Latest Howrey News, Patrick McKenna interprets:

> Ooooooooo, here it comes......wait for it.......alternative fees and low cost service providers unexpectedly arose and killed a healthy, well run law firm!

So, although there may be less of a demand for litigators, a well run firm could adjust. And although clients may want alternative fee arrangements (AFA) th**e tipping point for Howrey was the response to client pressure for a small percentage of cases to be converted to AFA**? Astutely noted by Patrick Lamb in his follow-up blog post: The BS of the "Howrey Story" :

> **AHA. SO, the firm survived on overcharging clients for mundane administrative discovery service. And did not have the acumen to adjust its fundamental practice accordingly. That was certainly not anything that was foreseeable or addressable by management.**

In the end, Howrey CEO Robert Ruyak, summed it up the best:

> What we found is that partners at major law firms have very little tolerance for change and very little tolerance for fluctuation in profits.... Wall Street Journal's Law Blog March 9th.

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