

January 2012

Reflections: The Trajectory of the Legal Profession in a Post-9/11 World

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Recommended Citation

Joseph W. Armbrust, *Reflections: The Trajectory of the Legal Profession in a Post-9/11 World*, 56 N.Y.L. SCH. L. REV. 1100 (2011-2012).

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Reflections: The Trajectory of the Legal Profession in a Post-9/11 World

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EDITOR'S NOTE: This article is an edited version of remarks Mr. Armbrust delivered on September 8, 2011, at the *Lawyers and the Law in New York City: 10 Years After 9/11* event, hosted by the New York City Bar Association's New York City Affairs Committee and the *New York Law School Law Review*. The video of his full address is available at <http://nyls.mediasite.com/mediasite/SilverlightPlayer/Default.aspx?peid=4dec496d5c4f49afb5ab187d567ab6401d>.

REFLECTIONS: THE TRAJECTORY OF THE LEGAL PROFESSION IN A POST-9/11 WORLD

My perspective on the topic of *Lawyers and the Law in New York City: 10 Years After 9/11* is that of a lawyer in a large law firm and has been shaped by my history, and my firm's history, with the World Trade Center. My firm became a tenant in the World Trade Center in 1982 and was known at that time as Brown & Wood. We lived through the 1993 bombing and were displaced for over a month while the building and our offices were repaired. We chose to stay in the World Trade Center despite our 1993 experience and, after merging with Sidley & Austin in May 2001 to become Sidley Austin Brown & Wood, we began consolidating the 600 New York personnel in our expanded World Trade Center office. September 11, 2001 changed our plans and changed our lives. We relocated to midtown after the attacks, and in the process we learned a lot about ourselves.

I had boarded a plane that morning at 8:15 a.m. to fly from Newark to Los Angeles. We were forced to land at the nearest airport, in Omaha, without any explanation from the cockpit other than that there had been "a national security incident." Before landing, passengers were searching through the windows for signs of mushroom-shaped clouds. From the barroom television at the Omaha airport, I later learned what had transpired.

I immediately rented a car and headed back to New York. During that drive, I had a continuous conference call with other members of the firm's Management Committee and senior administrators as we sought to find out what had happened, where our people were, and what had happened to them. At the same time, we began working on the firm's recovery and relocation, leasing additional space on Third Avenue from a sympathetic client and other generous law firms.

By the following Monday, we had found almost all of our people and, through the efforts of clients around the country, had a desk, a phone, and a computer for every one of them. But not every person was able to return to work. One person, our switchboard operator, had died, and several others were injured, physically or psychologically, and never would return.

The collective effort to find and assist our people, to expand our midtown office, and to install the equipment brought to us over that weekend by our clients and our Chicago and Washington offices had the effect of bringing all of us much closer together and cementing the four-month-old merger of the two law firms.

Since then, we have endured two wars (or perhaps three), a severe recession, extraordinary unemployment, political polarization, and financial markets that have been in convulsion since the crisis of 2008. The sense of community that was so evident in the months following 9/11, both in New York and around the country, and that so benefitted my firm, has dissipated in the years since.

The changes in the practice of law since 9/11 reflect this unhappy development as we have witnessed the acceleration of a trend toward the depersonalization and, in some respects, the commoditization of the practice. Nothing exemplifies this more vividly than the letters I have received in the last few years from the general counsels of certain longstanding clients that were addressed, "Dear Vendor."

Admittedly, I began my practice at a time when institutional relations between law firms and their clients were very strong and lawyers and their clients met face-

to-face on a regular basis. Through these meetings, lawyers developed a relationship of trust with their clients and a holistic knowledge of their clients' business and legal problems. Those halcyon days are long gone, ushered to the grave by advances in technology and relentless cost-cutting by the principal consumers of legal services.

The recent recession and the resultant pressures on profitability at America's corporations have caused general counsels to reduce their use of outside counsel and demand more of their in-house legal staff. Moreover, when a decision is made to use outside counsel, corporations now often utilize competitive bidding to obtain lower rates, ignoring any historical relations that may have existed between the corporation and outside firms.

Another development affecting the legal industry since 9/11 has been the growth of agencies providing contract attorneys and legal service vendors that utilize international workforces much like overseas call centers. Corporations often dictate that their outside law firms delegate to such agencies and vendors the type of work that had formerly been performed by junior law firm associates, such as document review for large-scale litigation. The ready accessibility of standardized legal forms and precedents for transactional documents through the Internet has further compressed the time needed to respond to client demands and, in turn, the need for associates to perform such tasks.

The increase in productivity that technology has produced for the industrial sector likely explains how so many companies have recently reported greater profits even while their staffing remains reduced and unemployment in the United States remains so high. The increased influence of technology has had a similar effect, although perhaps belatedly, on the practice of law. Law firms too have been able to accomplish more with fewer lawyers and staff because of technological improvements; law firm libraries, for example, have been greatly reduced in size and staffing thanks to computerized online resources. Consequently, after many years of growth, law firm employment was flat from 2004 through 2008 and has shrunk since the financial crisis occurred.

A further negative development for the profession since 9/11 is that the reputation of the bar has been diminished following the spectacular failures of Enron, WorldCom, and other large entities shortly after 9/11. As the public sought the right person to blame, the press, politicians, and regulators found the lawyers and other gatekeepers to be convenient targets for criticism. These events gave rise to the Sarbanes-Oxley Act of 2002 and its provisions governing the conduct of securities lawyers. Nothing that has occurred in the ongoing mortgage crisis has improved the popular perception of lawyers as mouthpieces without principles. Even members of the U.S. Supreme Court now seem to be regularly vilified as politicians in robes.

The sense of community that we saw in the wake of 9/11, and that was so helpful to my firm, has been eroded within the legal profession by the failure of several prominent law firms, caused, in part, by the departures of certain powerful partners who succumbed to the lure of "bigger bucks" at firms with higher "profits per partner." The former firms of these lawyers were then forced to contend with increasing client demands for discounted fees and a deteriorating economic

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environment. In short, capitalism has caught up with lawyers, who had for so long been immune to its pressures.

I believe that the nature of the relationship between lawyers and their clients has been profoundly altered, and that this will have an unfortunate impact on young people entering private practice. The ties between lawyers of my generation and our clients were often forged at meetings we attended as associates, where we were able to meet and develop relations with the personnel of our clients who were at similar stages in their careers. The explosion of e-mail over the last several years and the persistent client demand for haste and minimal chargeable hours have combined to make the face-to-face meeting between lawyer and client an increasingly rare event. The consequent depersonalization of the practice has made it much more difficult for younger lawyers to build the relationships that will help them establish the client base they will need to succeed later in their careers.

I would like to offer a more upbeat perspective on the practice of law as we observe the tenth anniversary of 9/11, but the fact is that many significant changes have occurred, and many more will occur, that affect the way legal services are delivered and the prices paid for those services. To date, these changes have benefitted the consumers of legal services. My fear is that the ever-increasing pressures on the legal industry to deliver services as efficiently and economically as possible will make the law less attractive to the bright young people the profession needs to recruit in order to continue providing a reliable legal system that is so essential to a civilized society.