

As Layoffs Lawyers Struggle But Stay Hopeful

By: Lauren Williamson, InsideCounsel

When the economy tumbles, a company usually circles its wagons to protect in-house lawyers rather than pay expensive outside counsel. In fact, most legal departments have been gradually growing during the past several years. But in this recession, many companies are cutting attorneys loose and expecting the remaining legal staff to do more with less. After layoffs lawyers struggle but stay hopeful.

"No industry has been immune from the downturn," says Vanessa Vidal, president of ESQ Recruiting. "While the degree may be different, what's really made this recession unique is that it's affected [law departments in] industries across the board."

In June, as the total unemployment rate hit 9.5 percent, the highest since 1983 according to the U.S. Bureau of Labor Statistics, the names of companies with law departments impacted by layoffs read like a who's who of corporate behemoths: Home Depot, Ford Motor Co. and Microsoft are just a few of the corporations with reported in-house layoffs this year. And while staffs are slimmer, the workload stays the same, leading to long hours and lots of stress for the lawyers who remain.

On the following pages, InsideCounsel takes a look at in-house layoff woes, how legal departments are accomplishing more with less and signs that yes—the worst may truly be over.

The Chop

Michelle Pessah recently went to a networking event where a woman asked her, "What is your dream job?"

Pessah's response: "I had my dream job."

That dream job was senior counsel for Sony Electronics. But on April 2, Pessah, along with more than 20 colleagues, was laid off as the economic downturn forced Sony to trim its law department. Sony did not respond to a request for comment.

"I don't think attorneys ever think that after getting all that education and incurring all that debt that this could happen to me," she says. "But then you see law firms dissolving left and right, and you think, 'Wow, maybe it could happen.'" Pessah had two months' notice to tie up loose ends and begin looking for a new job before her final day of work in June. So far, her search has come up empty.

Pessah isn't alone in her struggle to find work. "Hiring freeze" and "layoff" are the buzzwords of the moment when it comes to in-house employment, particularly for early- and mid-career lawyers—Pessah falls into the latter. While law firm attorneys have taken a greater hit, the percentage of in-house lawyers let go nationwide points to the severity of this recession, says Bob Graff, global practice manager for the In-house Practice Group at Major, Lindsey & Africa.

"The laid-off in-house lawyer is in a really rough boat because there just aren't that many in-house positions to begin with, and most of them don't want to go back to a law firm," Graff says. "There aren't a lot of options."

It's difficult to know exactly how many in-house attorneys have faced layoffs because companies typically fold the numbers into the overall employee total, Vidal says. However, she says the industries with the most in-house layoffs mirror those most affected by the recession overall. Financial services and real estate top the list, but in recent months, job losses hit legal departments for auto manufacturers, insurance providers, construction companies and retail corporations as well.

Macy's department stores reduced staff by 7,000 employees in February, including 14 people who either retired or were laid off from the legal department, says Dennis Broderick, the company's general counsel and secretary. The layoffs resulted from both the sagging economy and a corporate restructuring that eliminated four divisions and centralized Macy's operating structure, he says.

"It was traumatic. Our law department has never experienced such a thing, ever," says Broderick, a 23-year veteran of Macy's.

Survivors' Guilt

Life for attorneys who remain in a legal department after a round of layoffs can be very stressful, as an already overworked staff is forced to tackle even more.

"I don't think there's any magic strategy," Graff says. "They have to triage the problems and work as many hours as they can."

Many corporations are taking on project attorneys and temporary paralegals so as not to increase their overhead, says Charles Volkert, executive director of Robert Half Legal. "They're able to take in those temporaries, manage the workload internally and, when those projects end, the temporaries come off the assignment," he says.

Since law departments are so thinly staffed to begin with, letting go of just a few attorneys can have a big impact. Vidal says there aren't too many options to fill the gaps. "It's just old-fashioned hard work, and you have to take on more than you had in the past," she says. "It's a difficult proposition."

While Macy's new operating structure led to slightly less legal work because it no longer needed separate law offices for each operating division, Broderick says the dip is disproportionately smaller than the number of employees the department lost. The remaining attorneys are tackling the comparatively swollen workload in stride because the department's philosophy has always been to perform as efficiently as possible. "We don't run a sweatshop here, but we try to be as productive as we can," he says.

When the workload stretches the in-house lawyers too thin, Broderick calls on outside counsel—but only when the department critically needs extra support.

"It's been a fundamental truth that inside lawyers will cost the company a lot less per hour for services rendered than an outside law firm," he says. "It's much more economical to [keep work] inside."

Although the recession hasn't made much of an impact on the legal department at pharmaceutical company Gilead Sciences, General Counsel Brett Pletcher says the company is operating as though at some point it might. Gilead's law department is tackling work internally it would normally outsource to law firms. For the work he does send out, Pletcher's arranging a stable fee structure with law firms.

"We're trying to go to outside counsel only when we have very strategic work ... where you need someone who has vision across a bunch of different companies versus just one company," he says.

Morale remains high as Gilead's in-house counsel ramp up their internal workload, but elsewhere spirits fall when law departments face not only more work but also fewer colleagues. In the two months before her official end date, Pessah says the cuts at Sony cast a pall on the entire team. "The people who kept their jobs had survivors' guilt and, for the most part, more work to do," she says. "The amount of work isn't getting any smaller. It's just the people are getting fewer. It's hard on both ends."

Pounding the Pavement

Most everyone who's held an in-house job wants to find another law department position, which can be a tricky proposition in any market because of the limited size of the field, Vidal says. But even if an in-house attorney wants to return to a law firm, it's not always a simple transition.

"Even in good markets, law firms are quite reticent to hire attorneys who've gone in-house," she says. "In a law firm, you're valued for your expertise. When you transition in-house, your value comes from being a generalist. To come back to the law firm environment, you're a different attorney."

Add to that the fact that law firms have been facing their own share of layoffs, and terminated in-house lawyers find themselves in a tough spot.

Some attorneys fill the gap between positions by doing temporary or project-specific work, Volkert says. "It's a way to keep their skills fresh, as well as to get additional experience at corporations or law firms handling a specific type of matter," he says.

Motorola terminated a number of in-house attorneys in November, including Michael Osajda, who spent 13 years in the company's legal department. While he's had a couple of job prospects, including a position overseas with New York University, Osajda has yet to find full-time employment.

In the early 1990s, Osajda found himself in a similar situation and started a solo practice. He eventually connected with Motorola by working for them for two years on a contract basis before formally joining the team. Recently, he's done some independent work for a manufacturing company, but he says he doesn't see himself launching his own practice again.

At Motorola, Osajda handled international transactions. "Not many people look for a sole practitioner who can document a \$150 million system sale to a Pakistani entity," he says.

In addition to the refined set of skills that makes some laid-off attorneys better suited for legal department jobs, Graff says many lawyers want to remain in-house because they like being so directly involved with a particular business. "[When working in-house] they see the whole issue," he says. "They don't see just one piece that they're parachuted in to solve."

That big-picture view is one of the reasons Pessah says she's driven to find another in-house job. A supervisor asked her if she'd ever considered moving to the business side of Sony, but Pessah is committed to staying in law. "I love being a lawyer," she says. "I love the logical thinking. And I love being in-house because you get to be preventive—you stop problems before they start."

Hiring Hope

As difficult a time as this is for most lawyers, the job news in-house isn't all bad. Hiring in sectors such as health care and energy remains strong, Graff says, and Major Lindsey's in-house division is busy, despite economic woes. "We're down, but we're not down nearly as much as the law firm hiring," he says.

And even within troubled industries, Vidal says certain practice areas—such as compliance, labor and employment, and intellectual property—grow persistently.

Some companies actually see hiring more attorneys as the most efficient way to run the legal department. Manufacturing company Danaher added two staff attorneys, as well as a temporary attorney and an intern, during the past year and a half, says Christian Na, general counsel of Danaher Product ID Platform. At the same time he added staff, Na managed to halve the legal department's budget during each of the two years he's been at Danaher.

"Adding an attorney allows us to have a steady level of resources for the legal spend," he says, rather than relying on the varied counsel. When he does send work outside, Na says the Outside Counsel Policy that he issues to the firm sets clear guidelines on cost managements in advance of the project.

Graff says he believes things have turned the corner. Because in-house attorneys are so overworked during hard times, he says, those positions are among the first a company fills once the economic outlook is brighter. Companies that repeatedly told Graff to call back later now tell him they're ready to hire.

"The outlook is still very bright for corporate legal departments," Graff says. "They continue to grow. They continue to add business in a very sophisticated way. In-house continues to be a coveted niche within the profession."