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Recommended Citation
Gary A. Munneke, Maybe Mom and Dad Were Right Musings on the Economic Downturn, N.Y. St. B.J., Sept. 2009, at 10, available at http://digitalcommons.pace.edu/lawfaculty/599/.

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Maybe Mom and Dad Were Right

Musings on the Economic Downturn

By Gary A. Munneke

I grew up in the Prosperous Fifties, when the American economy was strong, people who wanted to work almost always could, and tomorrow promised to be better than yesterday. My parents, however, did not take this state of affairs for granted. Their formative years were spent in the Roaring Twenties, a period of economic expansion in this country following the end of the War to End All Wars. By the time they reached their teenage years, the nation was deeply mired in the Great Depression, and the hope for world peace dwindled with each passing year. By the time they graduated from college, a Second World War had engulfed the globe, and their fledgling marriage in 1942 was interrupted by military service for my Dad. Scrimping and saving out of economic necessity turned into scrimping and saving out of patriotic duty, but the record is clear: by the time my parents were re-united in 1946, they had spent over two-thirds of their lives scrimping and saving.

Mom and Dad never forgot the lesson that prosperity can be fleeting. No matter how good times are, tomorrow could turn on a dime. Their response was to live their lives doing what they knew best to be ready for the proverbial rainy day: scrimp and save. We didn't live in the biggest house or drive the fanciest car. We didn't vacation in the most exotic spots, and when we got to our destination, we didn't stay in the most luxurious hotels. We didn't eat out all that much, and my mother stretched the food budget by finding countless ways to reconstitute leftovers into some new dish that disguised the original contents.

This lifestyle was not because we were poor. Au contraire! My father had a good job as a tenured college professor, supplemented by consulting gigs with companies that were expanding with the economy. By the time my sister and I were teens, my mother had gone back to work as a speech pathologist, a career she had put on hold to have a family. Even when they retired in the mid-1980s, they watched their pennies. Although they traveled the world and owned a second home, it is safe to say that the word "frivolous" was not in their vocabulary.

My sister and I had a different experience. Baby Boomers, children of the '50s and the Cold War, we never witnessed the global meltdown of the Great Depression. There were, to be sure, periodic recessions, which incon-

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venienced us more than overwhelmed us. We had to sit in lines during the '70s to get gasoline, and in the early '90s we lost a little spare cash on a tech penny stock that didn't pan out. The Soviet Union collapsed and the Berlin Wall fell, just because President Reagan said, "Mr. Gorbachev, tear down this wall." Or so it seemed.

We never carried on the tradition of scrimp and save. We always thought our parents were a little bit eccentric for looking over their shoulders to discern signs on the horizon of the coming meltdown. They both passed away before our current economic woes began to escalate, so they never had the opportunity to look us in the eye and say, "Aha, we told you so!" Not that they would want us to suffer, but if they were here now, they would feel justified in their lives of moderation.

My children, members of the so-called Gen X, may be less prepared for the economic downturn than their Boomer parents. Their experience has taught them to expect the best. While my Mom and Dad were conservative in their finances, and quick to warn of the risks of profligacy, my children grew up with every convenience, protected from the vagaries of economic instability. Like Prince Prospero in Edgar Allen Poe's short story "The Masque of the Red Death," where the prince gathers up all his friends and family, ensconcing them in his impenetrable castle, only to learn that the Red Death knows no walls, we chose to protect our children rather than prepare them for bad times.

Boomers and Xers now populate law firms and legal departments in 21st-century America. The current crop of law students and young lawyers may hail from a new generation, Gen Y, but the focus of these comments is on the Boomers and Xers, who represent the decision makers in the legal profession today. The Boomers may have been warned by their predecessors at the helm of law firms that the good times might not always be good, that what goes around comes around, and that in the old fable of the ant and the grasshopper, it is better to be the ant than the grasshopper. We didn't listen particularly well. The Gen Xers emerged on the scene with a blithe expectation that things would work out for them, because someone had always provided a safety net to protect them from harm.

It should come as no surprise that Boomers and Xers, ensconced in their law firm castles, believed like Prospero that they could keep the Red Death at bay. The economic meltdown of 2008 and 2009 has proven that lawyers and law firms are not immune from the consequences of living like grasshoppers in the Year of the Ant. Maybe Mom and Dad and those now-retired senior partners from, how can I say it, the Greatest Generation were right. Maybe a little more scrimping and saving and a lot less excess would have placed us in a better position than we find ourselves in.

All is not lost. Undoubtedly, some firms are stronger than others, and they will survive. Other firms may figure out that it is time to change before it is too late. All firms can count on the fact that the economy will turn around again, and that the key for many of them is to hold on until better days arrive. All is not lost.

This issue of the *Journal* takes a look at the legal profession as it confronts the most serious economic downturn since the Great Depression, but the focus is not on what went wrong, or why. The articles in this issue examine how lawyers and law firms can survive, and thrive again when the economy improves.

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Assistant Dean Rachel Littman, of Pace Law School, takes a look at the job market for lawyers in the 2009 economy, exploring not only how the job market for lawyers has eroded, but also where opportunities exist for job hunters. A constant barrage of stories in the legal press might be discouraging to anyone looking for a legal job, but Dean Littman makes it clear that this is no time to give up.

Arthur Greene, a legal consultant and former law firm partner, examines how lawyers can squeeze more profit out of less income by frugally managing various aspects of internal law firm operations. Perhaps as much as any other article, Greene's message is the same as my Mom's and Dad's: scrimp and save, get the most out of what you have, and you can survive this recession intact.

Anthony Davis, a New York lawyer whose practice focuses on law firm risk management, and David Elkanich, of Portland Oregon, discuss particular management issues that can lead to professional liability. They note that in times of economic crisis clients may try to shift the burden of loss to counsel. For example, if a company has lost money on a deal that threatens the economic well-being of the company, it may consider suing its law firm (insured for malpractice liability) for advice provided by the firm in the course of the transaction that produced the loss.

In an article on marketing in a down economy, consultants and authors Sharon Nelson and John Simek suggest that lawyers and law firms need to redouble their efforts to reach potential clients through innovative marketing methods. They especially encourage lawyers to utilize

technology to get the word out about what services they provide and to whom.

Together, these articles provide a blueprint for addressing and lessening the impact of the recession. Although much of the press coverage of the recession with respect to the legal profession has swirled around the largest law firms, variously referred to as "BigLaw" or the "AmLaw 100," the problems generated by the economic downturn are not limited by firm size or location. Large firm practice may be more visible and easier to study because of the availability of data upon which to draw inferences. What happens on Wall Street may portend trends in the profession that extend to Main Street. The lessons learned from the demise of leading law firms might make good case studies for Business School and Law School classes on law practice management.

In the end, large firms are just one segment of a large and diverse profession. Some of the problems that large firms have encountered are endemic to any recessionary period; some are attributable to this particular recession; and some are different in various ways from the problems faced by smaller firms and solo practitioners. The key is for law firms to sort out what is important to them in their unique practice settings. All firms, regardless of size, need to think strategically, operate economically, work efficiently, and deliver services effectively. These are the best guarantees for surviving the current downturn and enjoying the economic upswing, whenever it comes.

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For Baby Boomers and Gen Xers, it may not be as easy as it ought to be. We have a lifetime of living like grasshoppers, just as Mom and Dad spent a lifetime living like ants, even when they could have abandoned their ant-ly ways. Law firm leaders of today still have the opportunity to learn from Mom and Dad to scrimp and save, both personally and professionally. If today's law firm leaders do not learn from their predecessors, they may find themselves marginalized in the legal marketplace, or forced into early retirement. Interestingly, the new associates in our firms, the representatives of Gen Y, may know the answer: we need to leave a smaller footprint, by practicing sustainably, or the recession of '08–'09 will look like nothing compared to what is to come. ■

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