Is the Law Firm Business Model Changing?

I am writing this entry in reference to Jason Mendelson's recent blog entry "Adam Smith – The Wealth of Lawyers." Jason argues that we are going to see the end of big law firms as we know it. He references a recent op-ed piece from the Wall Street Journal that argues the same point. Apparently, however, the website Adam Smith, Esq. offered a rebuttal to the op-ed piece and argued that the end of big law firms is a myth. As a former big law firm lawyer, I think I can weigh in on this debate of whether or not the big law firm model is dead. Like many things, I think the answer lies somewhere in between.

I think the main distinction here is what everyone means by dead. Is it like Lehman Brothers, an eternal brand of investment bank that just disappeared? Or is it like General Motors, a complete restructure of how they do business in the hopes of living to fight another day? I don't think big law firms are going to completely, physically disappear. Certainly, some are going to close shop because not all lawyers are also good business people – they fly too close to the sun, get burned, and disintegrate (e.g., Brobeck). At the same time, some are going to survive for various reasons. It's like anything else in business though – your model has to work for you to survive and the big law firm model is broken.

What is going to change – and there is absolutely no doubt about this in my mind – is how big law firms run their business. Fat salaries for first year associates that don't know how to mark up a document much less run a deal – gone (I suspect an apprentice model works much better). Some may reconsider the museum-like office space and gallery-like artwork that hangs on the wall. All will have to confront the complete disconnect between the billable hour and value for the client. Indeed, this last point is the one I think has been brewing for decades and the current economic times have finally given clients the gumption they need to point it out. Some lawyers recognize this – see article 1, article 2. Change the billable hour model and everything else we've mentioned as a woe of big law firms will be forced to change. You cannot provide a value to the client and also sit in your Park Avenue office, although some will still find a way to do this – remember the adage "no one gets fired for hiring IBM." Well, in a bet-the-company transaction, the general counsel will not get fired for hiring one of the top 10 law firms, despite the cost.

Nevertheless, lawyers are challenging this model from within by bringing their entrepreneurial skills to the forefront. Take a look at Virtual Law Partners. They've attempted to completely change the law firm model. By going virtual they eliminated all of the costly overhead of running big firms like tony offices, artwork, etc. Under the VLP model, the lawyers keep 85% of what they bill, the other 15% goes to pay for the technology backbone and collections support. In the process, many of these lawyers gain a better work-life balance. If you are keeping 85% of what you bill, you can cut your rate significantly (i.e., good for the client) and bill less time (i.e., good for the lawyer) and still make a very good living. I predict firms like VLP will flourish and will fill a much needed gap in the law firm model (and will give clients a big law firm trained lawyer at very reasonable rates). At the same time, some big law firms will remain and will continue to bill high hourly rates on enormous transactions or litigation.

I could also see clients wasting this opportunity to force change. The big risk here is that the economy roars back, clients get complacent with positive cash flow and they buy into the big firm model again. Think of the purchase of hybrid cars, once the price of gas drops people tend to go back to SUVs. Well, once clients are again flush with money, will they go back to the old model?