

It's a boom time for lawyers

Mortgage fraud cases, getting a piece of the financial bailout, staying out of trouble in a downsizing - all can translate into billable hours for the legal profession.

By Carol J. Williams
October 30, 2008

The loose-leaf binders on Beverly Hills attorney Paul Kiesel's blond wood shelves contain hundreds of stories alleging deception, loss and heartache.

Kiesel is representing struggling homeowners who contend they were misled about the terms of their mortgages. He is far from the only lawyer finding himself busy these days as a result of the hard economic times.

In addition to attorneys suing lenders, there are others providing counsel for companies that are downsizing or have been pushed into bankruptcy. Others are representing clients in fraud lawsuits against banks and Wall Street investment firms.

And there are lawyers guiding distressed banks and others seeking a piece of the \$700-billion government bailout of the financial system.

The country may be slipping into recession, but it's shaping up to be boom time for lawyers.

"Is this a business opportunity?" Karen Garrett, head of the financial institution regulatory practice for law firm Bryan Cave in Kansas City, asks rhetorically.

She quickly answers her own question, saying that the \$700-billion federal rescue package will create plenty of work as banks and other institutions seek legal guidance to get a share of the funding and comply with the sometimes complex requirements.

"From here on out, we're going to see huge opportunity as credit fans out and everyone tries to use the tools available from recent legislation," Garrett said.

The bailout also includes new rules, including restrictions on executive compensation, that will create even more work for lawyers, said Scott Sinder, head of Steptoe & Johnson's government affairs and public policy practice in Washington.

"We're going to have to marry program restraints with contractual obligations of companies," as lenders and insurers execute contracts with the government, Sinder said.

Even smaller clients whose business isn't directly affected by the credit and mortgage problems are peppering their lawyers with questions on such matters as the security of their deposits and their access to credit, said Bryan Cave's Marty Rolle, a partner in the London office.

Labor and employment lawyers, including a team at Rutter Hobbs & Davidoff of Los Angeles, are busy advising companies that are cutting their staffs on how best to handle layoffs without getting sued.

In international law firm Fulbright & Jaworski's latest litigation trends survey, 43% of corporate counsel surveyed said they expected an upswing in lawsuits, largely spurred by the economic crises.

Stephen C. Dillard, who heads the firm's global litigation practice, said the survey's findings represented a belief that the world is in "a period of economic challenge that is likely to fuel litigation over who is to blame and who should pay for the consequences."

Michael B. Dorff, associate dean and law professor at Southwestern Law School in Los Angeles, sees little prospect of success in most of the litigation, although he agrees that a gusher of lawsuits is likely to occur nonetheless. He sounds a more cautionary note about the financial future for law firms, noting that lawyers, like everyone else, may be facing tougher times.

"If you look industrywide, the recession is going to hurt lawyers more than any kind of benefit they would derive from the legal work," he said.

Dorff believes that many of the lawsuits that grow out of the crisis -- including shareholder suits alleging that executives misled investors -- will be difficult or impossible to win because plaintiffs would have to prove willful misconduct or failure to fulfill fiduciary responsibilities.

Defendant banks, brokerages and investment houses can argue that they were caught unaware by the swift change in the economic tide.

But the difficulties won't stop the legal actions.

"There's so much at stake, it's just undeniable that there is going to be a lot of litigation," said Michael Dolan, chief executive of Tusker Group of Austin, Texas, which operates two legal services facilities in India where 300 lawyers, researchers and processors review documents for about 10% of what it costs for a U.S. lawyer to do similar work.

"Because of the players involved, this is going to be document-intensive litigation," Dolan said, estimating that U.S. law firms already spend \$30 billion a year poring over potential evidence that has grown exponentially in volume now that courts allow exchanges by computer.

Only a tiny fraction of the document reviewing for U.S. legal actions is done out of the country, he said, leaving the bulk of the work in the hands of American lawyers billing their clients more than \$200 an hour.