

MIDSIZE HOT LIST



TUCKER ELLIS & WEST

EDITOR'S NOTE

Midsized law firms haven't managed to completely dodge the recession's punch, but they have proven more agile than their bigger competitors.

The recession has delivered a savage blow to many law firm giants. Layoffs, employment deferrals and full-blown failures of firms have revealed some deep flaws in the big-law business model.

In many cases, midsized law firms—between 50 and 300 lawyers, for our purposes—have been more adept in addressing clients' concerns about price constraints, their frustrations with traditional billing structures and their desire to staff matters efficiently.

The National Law Journal's inaugural Midsized Hot List represents 20 law firms across the country that have demonstrated creative, innovative strategies to stay competitive. From piles of nominations received, we've selected firms that have found new ways to recruit and retain top talent, develop practice areas, manage their operations and position themselves to stay on track during the economic upheaval.

Staff reporter Jeff Jeffrey and regular NLJ contributor Roger Adler put together the 20 thumbnail profiles of each firm. We recognize that many more firms could have made the list. That said, those included here have shown the nimbleness and adaptability that come from lean operations and strong client ties.

—LEIGH JONES

Alternative fee arrangements are so 2003

Giving billing options to clients was a founding principal for Tucker Ellis & West, and that's still paying off.

BY KAREN SLOAN

When it comes to billing, Cleveland-based Tucker Ellis & West gives its clients options. Want to stick with the billable hour standby? No problem. Prefer an annual fixed fee or per case flat-fee arrangement? The firm has several choices in place. What about naming your price for the firm's legal services after the work has been done?

There haven't been too many takers for that option so far, but it's one of a number of alternative billing arrangements with which the law firm has experimented.

Approximately 40% of the firm's total revenue now comes from alternative fee arrangements, and clients increasingly want to move away from the billable hour, said partner Jeffrey A. Healy, in the firm's trial department.

It wasn't the recent economic meltdown and wave of newly cost-conscious clients that prompted Tucker Ellis & West to embrace billing alternatives, but the firm is benefiting now from its forethought. The decision

came in 2003 when the firm formed after the dissolution of Arter & Hadden. The defunct firm had expanded quickly during the 1990s but shrank to little more than half its peak size by 2003, and it struggled under the weight of its financial obligations. When Arter & Hadden closed shop, about 90 of its attorneys banded together to form Tucker Ellis & West with the idea that they would do things differently.

"We made an institutional decision to move toward alternative fee arrangements, which I think put us ahead of the curve," said managing partner Curtiss L. Isler.

They would also attempt to eliminate tensions over partner compensation by adopting a closed compensation system that relegates all salary decisions to a powerful managing partner and keeps confidential the amount each attorney makes.

It's nearly six years into the life of Tucker Ellis & West, and the fresh approach seems to be paying off. The firm has grown to 142 attorneys and has added offices in Denver and Columbus, Ohio, to its three original locations in Cleveland, Los Angeles

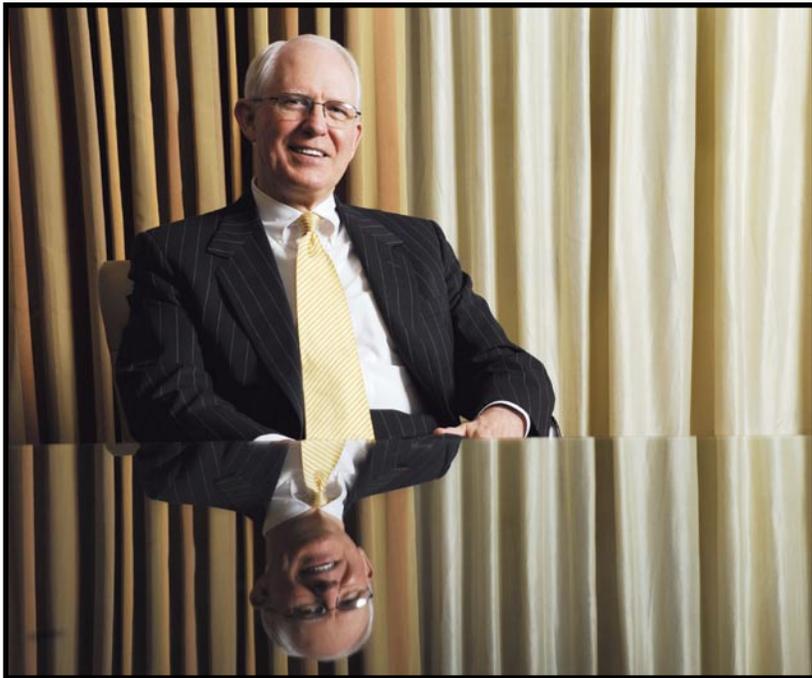
and San Francisco. The firm is doing well financially, Isler said. Revenue has grown every year since the firm was founded, and 2009 is looking strong as well, he said. Revenue increased by more than 5% in 2008 from 2007.

Although Tucker Ellis & West has a corporate practice, the firm is best known for its trial work, which accounts for about 80% of its revenue. The firm represents pharmaceutical companies, hospitals and other medical-related clients in liability cases and also handles mass tort products liability cases, among other matters.

The law firm provides products liability defense for Otis Elevator Co. in Ohio and Southern California on a flat-fee arrangement, said Patrick Corcoran, associate counsel for the elevator maker. "They've been a leader for us in our move toward alternative fee arrangements. It allows us to know what our costs are going to be, within reason," Corcoran said. "It also makes them, hopefully, work a little more efficiently. They're not thinking, 'Let's just throw a bunch of bodies at them.' "

AmTrust Bank General Counsel Roy Lachman said that Tucker Ellis & West has been flexible and innovative in its dealings with his company. He said the firm has alternative fee arrangements on a number of matters. "They tend to think outside the box, and they're not afraid to try cases," he said.

It has been easier to move away from the billable-hour model in part because Tucker Ellis & West attorneys aren't paid based on their billable hours, Healy said. Rather,



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CURTISS L. ISLER: The firm, which grew from the debris of failure, was determined to do things differently.

all attorney compensation is determined by the managing partner, who sets salaries by looking at each attorney's financial performance, how well attorneys are meeting the expectations of the partnership and their community involvement, among other considerations. Only the managing partner knows how much each attorney gets paid. A handful of firms, including Greenberg Traurig, have closed compensa-

tion models, but the practice is uncommon. "We have often talked about that process, and how it has changed the way we think about our job and our firm," Healy said. "It does away with a lot of the jealousies and the conflicts that pop up at a lot of firms. We look at accomplishments as the main factor in compensation."

Beyond the firm's willingness to accept alternative fee arrangements, both Corcoran

and Lachman said they appreciate the attentiveness of Tucker Ellis & West attorneys. "Whenever we've brought up a problem with them, they've taken it right to management and addressed it. They're very responsive in that way," Corcoran said.

And Corcoran appreciates the periodic "quality control" phone calls he gets from the firm's managing partner—something he says Otis' other law firms don't do.

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