

## The economy, the law, the face of your case

Tough economic news peppers our daily experience and noted financial experts expect problems to continue at least through next year. The impact on the judicial process and bringing cases to trial needs to be considered. What's more, the economic malaise impacts the presentation logistics and strategies of your case.

According to the *New York Times*, a recent report by the law firm Fulbright & Jaworski found that more than one-third of lawyers working internally for companies expected to see more litigation in 2009. Clearly, financial services, securities, real estate, and even energy firms will be in the thick of litigation. Given that most high-stakes civil litigation take years to come to trial, it is unlikely that currently active cases will be derailed. However, smaller plaintiffs in matters legally unconnected to the economic downturn appear to be more wary of the costs of going to court and may postpone pushing for resolution.

In court, there will be subtle ramifications. With high profile examples like Washington Mutual's short-term (17-day) CEO, Alan Fishman, receiving a \$20 million golden parachute, the public is easily upset by corporate greed and malfeasance. The extensive media coverage of both the personalities and the questionable conduct heightens juries' (and judges') attitudes and knowledge. What's more, poor economic times tend to favor plaintiffs.

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But there are offsetting factors: Jurors consider the social and personal implications of their verdict. Jury consultant Richard Gabriel of Decision Analysis synthesizes it this way;

"They want to send a message to the defendant. They're angry at the way these companies have operated, but they are also aware that if they hit them too hard, their personal costs (for instance, insurance or medical care) will go up. They don't want their own verdict to cost them money or limit their life choices."

Integrating and embedding these subtleties into your demonstratives is essential. Each case has its specific facts and personality, but from a plaintiff perspective, representing substantial damages in light of corporate excess can be balanced with the long-term consumer benefits of such a verdict. For defense, isolate the problem and humanize the client. This can be accomplished by visualizing the company or individual --*throughout* your presentation-- as a microcosm of the American Dream: working long and hard to get to the top; or visually integrating the iconography of the historically good and charitable corporate citizen; or establishing a motif of the valuable innovations, products and services the company has provided.