

# LAW WEEK

## COLORADO

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## Litigation Work Is Brisk For Some Not All Practices Are Benefiting

By Ali McNally

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DENVER — The slow economy may see a rise in work for litigation for the Colorado 200, but not across the board.

A survey released in October from Fulbright & Jaworski, an international firm with offices in Denver, says corporate litigation is expected to increase over the next year. But law firms interviewed by *Law Week Colorado* offered mixed opinions on whether that increase will be significant, and which areas would be helped most.

“In this recession, unlike prior recessions, there has not been a surge in all types of litigation,” Jeff Dykes, a partner at Fulbright & Jaworski’s Denver office. “Typically what happens in a recession is that regulatory work dries up and litigation surges. In this recession, things are different.”

Robert Ferm of Hall & Evans said his firm’s regulatory work has picked up a little.

“A lot of what we do is insurance regulatory work. I think [companies are] feeling a little more comfortable given the signs of recession are over,” he said.

Other areas the survey predicted to increase included insurance. George Berg, founding partner of Berg Hill Greenleaf & Ruscitti, thinks it will increase because insurance companies make more money by doing types of things that create more litigation, like

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denying coverage.

“Insurance companies actually do better denying coverage because very few people can afford to fight them,” he said. “They have more money from premium payments, and the people paying those premiums really don’t have money to fight the power of the insurance companies.”

Berg added that insurance litigation can sustain recessionary periods because cases usually take much longer to resolve.

“If you start a case today, it may be four years until it’s resolved,” he said.

While a consensus couldn’t be determined due to the number of varied responses, one obvious increase in litigation related to the recession was found in bankruptcy.

According to John Young, managing partner at Markus

Williams Young & Zimmermann, the number of bankruptcy cases rose 50 percent within the past year. And the firm is hiring.

“We’re a fairly small firm — 15 lawyers. We would always be interested in hiring the right person to take up the extra workload,” he said.

Litigation is helping some firms support their lackluster corporate department. Berg said that business transactions have shrunk 20 to 30 percent across the country because of the lack of work.

“There have been whole sections of business transaction firms that have been downsized or eliminated, particularly in M&A, real estate and corporate transaction,” he said. “National firms that handle this kind of work have to keep big staffs to handle all that work. But when it goes away, they have to let that staff go.”

He added that his firm hasn’t had to make drastic cuts because its business section currently works on salvaging old deals. There are no new ones.

“We have been able to supplement with litigation our overall workload so that we haven’t had to lay a bunch of people off,” he said.

But there’s still hope for smaller firms’ corporate business, said Reid Godbolt of Jones & Keller in Denver.

“The joy of having a smaller

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firm is that it doesn’t take a lot of transactions to keep us busy,” he said. “We’ve had a significant management buyout that kept us pretty busy over the summer. We’ve also had a couple of financings in the fall that have been demanding and hopefully they’ll get completed.”

While business is going well, Godbolt says Jones & Keller hasn’t been hiring, and he wasn’t sure if it would in the next year.

“We’ll just have to see how the business transpires,” he said.

As for layoffs, Fulbright’s Dykes said they’ve occurred across the board, regardless of whether industry is rising or falling.

“It’s sad because these people have gone to school, they’re bright and they’re diligent,” he said. “But from an economic standpoint, we’re all at risk of losing our jobs.”