

Expert Witnessing During the Current Economic Downturn

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I've run my own consulting engineering business for twenty years now. Over the course of those twenty years, I've seen 3 recessions hit our economy: in 1991, 2001, and the current economic crisis of 2009. Each of these economic downturns hit my business in a different manner, with varying impact and duration. I do believe that I've gotten better at managing to get myself through each recession better than the last one. I attribute much of that to building my business, and my reputation in my field, over the last two decades. Much, however, I attribute to a shift in my business focus away from civil engineering investigations and design jobs, and toward litigation support work as an expert witness in water resources engineering.

During the recession of '91-'92, I felt the impacts of the contracting economy early on. I was doing primarily competitive engineering design contracts, which had begun to dry up and become much more competitive to win, especially in the civil works sector. I was putting out a lot more job proposals and winning fewer of them. My work dropped off to almost nothing, and I must admit that had to put a few mortgage payments on credit cards back then.

Over the next decade I began to do more and more work as an expert witness. As such, I was getting more of my work from expert witness directory listings and referrals than through the competitive proposal submission and selection process. When the dot-com bubble burst and then 9-11 happened, in 2001, what I saw was that the economic downturn didn't affect my workload until three to six months later. My business slowly fell off to about half of what it previously was over a span of several months, and then my workload slowly came back over the next year.

This time around, in 2008, I have seen much the same impact that I saw in '91 in that I didn't see a drop off in my workload until our country was several months into a period of economic slowdown. While my current case load is about two-thirds of what it was six months ago (which, so far, is fine with me as I was completely overworked last year), I have also noted some trends in the nature of my case work that are consistent with what I saw in '01-'02.

Are Expert Witnesses "recession proof"?

As an expert witness I am seeing that, while our field of work is not completely "recession proof," it does seem to be significantly buffered from the full effects of a recession. The fact is, litigation does not stop during an economic downturn, but the nature of it may. As with the recession of '01-'02, the impact of this recession on my expert witness work seems to have been delayed by some three to six months from the initial impact felt by the industrial sector of the economy, and the scope of that impact seems to be somewhat less (I haven't laid myself off... yet). Hopefully, as with the last recession, I will also see my business come back early-on, as the economy starts to improve. Of course, the big unknown now is how deep, and for how long, our economy will be in the tank.

Another trend I have seen is that, while my caseload is usually split 50/50 between defense and plaintiff work, I am approached by more counsel for defendants, verses plaintiffs, on new cases during a recession. This may speak to the fact that plaintiffs have to foot their own bills to initiate and maintain a piece of litigation, but defendants have to defend themselves, no matter what. While the number of civil cases that I get through insurance company subrogation seems not to have changed (I'm a flooding expert and it will *always* continue to flood somewhere), I would imagine that experts involved in more criminal cases would see an *increase* in their caseload, as the crime rate always seems to go up during hard times.

Advice for Experts in a Rough Economy

One thing I would recommend to Experts during rough times is to stay on top of your retainers, especially with plaintiff's attorneys. Don't let your bill get too big without frequent invoicing, and don't put your Expert's Report, or your testimony, out there without first getting paid. Also, it's a great time to market your business, install new software, upgrade your computer, or to get those CEU's through a training course.

I just updated my CV, wrote up two years worth of case descriptions for my Representative Case List, and cleaned up my computer files and company databases. I still hope to write a couple of articles (one down, one to go), go through a new software tutorial, and upgrade a computer O.S. (actually, downgrade: from Vista, back to XP Pro), while I've got some extra time on my hands.

For all of us sole proprietors: if you've got savings, don't sweat it, and be prepared to possibly dip into it (especially if the recession lasts through 2009, as predicted). If you don't have a nest egg in place, cut back on travel and dining out, and start marketing **now**. Most of the marketing that we do as experts (directories, search engine placement, place ads) doesn't impact us for several months. That's the thing about marketing, when you *need* to do it, you're probably too late. For many of us, the majority of our case work comes from word of mouth referrals and through our constant contact with clients via newsletters and cold calls (hint, hint).

Most importantly, hang in there. The economy runs in cycles and, eventually this cycle will run its course and you'll come out of it stronger and more experienced.