

## The Law of Evolution *by Michael J. Skoler*

American law firms are steeped in a long history of self-governance and private ownership. In fact, state laws and professional ethics rules prohibit the selling of shares in law firms to non-lawyers. However, as layoffs and



MICHAEL J. SKOLER  
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economic difficulties continue to plague the legal industry, it begs the question: Can law firms continue to prosper in a global economy without access to the capital markets?

The legal industry has traditionally been reluctant to acknowledge that law is not just a *profession* dedicated to representing the interests of its clients, but a *business* like any other, whose evolution is central to its

survival. To remain competitive, law firms require the same technological and fiscal resources that investment banks, consulting firms and private equity firms rely on. But the legal industry, through its rules of professional conduct, continues to forbid firms from tapping the financial markets for their capital needs.

Under the current business model, if a law firm wants to invest in its infrastructure in order to expand its reach, open new offices or fund new areas of litigation, its options are limited; it can try to raise existing partner capital, secure a bank loan or entertain a merger with another firm. But as competition increases and client needs become more complex, these old methods may not be sufficient to raise needed capital.

To remain competitive, firms must be able to attract and retain the best and the brightest, from attorneys and support staff, to IT, marketing, finance and human resource professionals. Offering stock options to potential employees can be an effective recruitment tool. Access to meaningful capital could also aid in lifting barriers to legal representation for underserved consumers.

The U.S. legal industry cannot ignore changes under way in legal systems around the globe. It is imperative that we repeal the archaic restrictions on

law firm ownership, especially if foreign firms routinely become larger, more efficient and better capitalized. Otherwise, we will be hampered in our ability to compete globally. So much of the consumer need for legal services is process-driven that we would be at a decisive disadvantage against international competitors when serving those in our own backyards, let alone clients abroad. The transition to non-lawyer ownership of American law firms will not be easy. Nor will it be quick. But as market forces demand new sources of capital, and consumer needs require firms to evolve their business model, such a transition is inevitable.

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# Mounting Bankruptcies Spread Securities Litigation Risk

by Kevin M. LaCroix, Esq.

The high-profile bankruptcies of two of the country's leading auto companies have dominated recent headlines, but the GM and Chrysler bankruptcies are only part of the recent wave of bankruptcies that have swept through the economy. As bankruptcies have spread, bankruptcy-related securities lawsuits against many of the bankrupt companies' directors and officers have followed.

The wave of bankruptcies is likely to continue for some time. An article in *The Wall Street Journal* estimates that "U.S. companies are poised to default on \$450 billion to \$500 billion in corporate bonds and bank loans over the next two years." *CFO Magazine* predicts that in the months ahead, "we'll see an unprecedented number of going-concern footnote disclosures and clarifications." Going-concern opinions tend to become self-fulfilling prophecies, accelerating the decline of companies on the brink of bankruptcy.

The prospect of surging corporate defaults and the rising number of companies with going-concern audit opinions also raise the possibility of an increase in securities litigation.

Advisen, an information database firm, reports that since 1995, 35 percent of large public companies (defined as having more than \$250 million in assets) that filed for bankruptcy were also named in securities lawsuits. During 2007 and 2008, that percentage increased to 77 percent.

Recent examples of bankruptcy-related securities lawsuits have included the lawsuit filed on April 30, 2009 against former directors and officers of publishing and advertising company, Idearc (N.D. Tex.); the lawsuit filed on May 19, 2009 against two officers of technology company Nortel Networks (S.D.N.Y.); and the lawsuit filed on June 1 against three officials of cable company Charter Communications (E.D. Ark.).

These three cases were filed only against individuals; the bankrupt corporate entities were not named as defendants. All three cases allege that the defendants mislead investors by providing false reassurances of their respective companies' financial health and ability to meet their financial obligations. And all three companies involved are outside the financial sector.

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## Co-counsel SPOTlight

**Burg Simpson Eldredge  
Hersh & Jardine, P.C.**  
Englewood, CO



**MICHAEL BURG**  
*Founder and  
Shareholder*

Burg Simpson is a firm of trial lawyers with offices in Colorado, Wyoming, Ohio and Arizona. The firm has an established reputation of national leadership with trial lawyers who have handled thousands of cases that have resulted in hundreds of millions of dollars in settlements and verdicts for their clients over the past 30 years.

"Our co-counsel relationship with Sokolove is an integral part of our extended network of nationally recognized law firms and expert consultants around the country, which provides our clients with a national 'team' of lawyers upon which to rely," says Mike Burg, founder and shareholder of the firm.

Participation in current Sokolove campaigns targeting pharmaceutical and medically oriented claims include gadolinium-based contrast agents and nephrogenic systemic fibrosis, medical malpractice and nursing home abuse, Heparin and Raptiva.

Burg Simpson represents a broad range of clients in a multitude of areas including catastrophic personal injuries, class actions, mass torts, traumatic brain injury, professional liability, complex commercial litigation, and securities litigation and arbitration.

What sets the firm apart is its commitment to excellence and achieving meaningful results for

clients by way of verdicts and settlements.

"With regard to our co-counsel relationship with Sokolove, we have found them to be honest, good partners and the successful results of our partnership projects are attributable to that collaboration," says Burg.



# Campaign Success Stories

## **LEVAQUIN:**

In July 2008, the FDA placed a black box warning on Levaquin, an antibiotic linked to tendonitis and tendon ruptures. Over the past year, Sokolove Law co-ventured with a number of firms across the country to launch and manage a series of high level marketing campaigns. The results:

- 366 signed cases
- \$409 cost per signed case

Part of the success can be attributed to Sokolove Law's highly effective and well-managed case acquisition process which involves in-depth screening to qualify and sign cases on behalf of co-counsel firms, using their screening criteria.

## **NURSING HOME ABUSE CASES:**

Since 2005, Sokolove Law has managed a national Nursing Home Abuse & Neglect campaign with some outstanding results for its co-counsel firms, such as Chicago firm Kralovec, Jambois & Schwartz. With their extensive experience in handling medical malpractice and nursing home cases, KJ&S joined our national network in June 2008. In that time, the firm had signed 25 percent of all the leads generated from their territory at a cost of \$1650 per signed case. That's an average of 3 signed cases per month!

## **MIRAPEX:**

When news broke that Mirapex caused compulsive behavior, such as gambling, there were many skeptics about the viability of these cases. Sokolove Law funded and launched a national campaign targeting Mirapex claims that yielded phenomenal results. Our co-counsel firm signed 67 cases at a cost of \$1,000 each and reached a significant settlement for 63% of the signed cases.

# The Legal Nurse Team at Sokolove Law

The Sokolove Law team of legal nurses includes a staff of 7 highly trained and experienced RNs with solid clinical backgrounds covering obstetrical, neonatal, intensive care, emergency room and medical-surgical nursing.

Utilizing this in-house resource, we now perform an in-depth medical review of every qualified birth injury and medical malpractice lead generated by our office. Our nurses are able to promptly and accurately identify high quality leads and provide our co-counsel firms with customized, relevant and detailed medical information to support timely attorney decisions regarding the disposition of leads. They also serve as a skilled, experienced and empathetic resource for our potential clients.

Our Senior Legal Nurse, Kathy McGinn, R.N., B.S.N., LNCC, directs the Sokolove Legal Nurse Team. With over 18 years experience as an in-house legal nurse for plaintiff firms who litigate birth injury and other types of medical malpractice claims, Kathy joined Sokolove Law in April 2008 and quickly became a vital medical resource for the firm. She handles daily medical questions, reviews leads and medical records for all case types, and provides ongoing medical training to our case managers and nurses. Kathy also plays a critical role in our campaign set-up process to ensure the medical aspects of each case type have been completely addressed before launching a new campaign.

# SOKOLOVE IN THE NEWS

**Aired June 7, 2009**

***NECN's "This Week In Business"***

Michael Skoler appeared on the show to discuss the Sokolove business model, the recent firm re-brand and growth initiative, and the business of law.

**June 3, 2009**

***The Patriot Ledger***

***"Law Firm Ramps Up Advertising Efforts"***

Michael Skoler discusses the Sokolove business model and the successful advertising campaign that supports it.

**May 29, 2009**

***Trial Magazine***

***"Trial Lawyers Seek Safe Passage Through Economic Storms"***

Michael Skoler discusses how lawyers can protect their firms through rough financial times.

**May 18, 2009**

***Massachusetts Lawyers Weekly***

***"Lawyer Launches Denture Cream Hotline"***

Jim Sokolove comments on the firm's consumer Denture Cream hotline and why it's important to establish such a vehicle.

# UPCOMING events

**July 25-29, 2009**

**AAJ Annual Convention  
San Francisco, CA**

**September 9, 2009**

**Michael Skoler** will be the guest speaker at the *Rotary Club of Boston* to share his thoughts on the business of law in an increasingly global economy.

*For More News & Events Please Visit:  
[www.SokoloveSuccess.com](http://www.SokoloveSuccess.com)*



## JOIN ONE OF OUR 2009 NATIONAL NETWORKS

Participation in our national networks is available on a state-by-state basis. Our contributing co-counsel firms receive all leads generated through the marketing campaigns for their state(s). The 12-month national time frame ensures cumulative media frequency and optimal ad exposure, with a focus on national cable and internet.

### 2009 Medical Malpractice/Birth Injury

Annual National Marketing Budget: \$3 million

### 2009 Nursing Home Neglect & Abuse

Annual National Marketing Budget: \$1 million

### 2009 Wage & Hour

Annual National Marketing Budget: \$500,000

Opportunities are still available. Call us at 1-800-305-4009 to find out if your state is available or to discuss participation.

## 2009 Significant Verdicts/Settlements via Our Co-counsel Firms

- **\$6,000,000** – Cerebral Palsy  
Blume Goldfaden Berkowitz Donnelly Fried & Forte, Chatham, NJ
- **\$2,000,000** – Failure to Diagnose Cancer  
Andrew C. Meyer, Jr., Lubin & Meyer, Boston, MA
- **\$1,500,000** – Failure to Diagnose Heart Attack  
Andrew C. Meyer, Jr., Lubin & Meyer, Boston, MA
- **\$1,425,000** – Workers' Compensation  
Michael J. O'Connor & Associates, Frackville, PA
- **\$700,000** – Pharmaceutical Wrongful Death  
Thornton & Naumes, LLP, Boston, MA
- **\$407,174** – Vioxx  
Beasley Allen, Montgomery, AL



**1-800-305-4009**

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Until now, the subprime and credit crisis-related litigation wave has largely been concentrated in the financial sector. However, the growing wave of bankruptcies is spread across the entire economy. As a result, a growing number of securities suits arising from the financial crisis are likely to be more widely dispersed across all sectors.

*Kevin LaCroix is a partner in OakBridge Insurance Service (Beachwood, Ohio), an insurance intermediary focused exclusively on management liability issues. He also authors the weblog, The D&O Diary, www.dandodiary.com.*

## UNDER investigation

*Sokolove Law is currently investigating potential litigation and marketing opportunities for injuries arising from the following:*

### ▶ Bone Growth Products

Life-threatening complications associated with the off-label use of recombinant human Bone Morphogenetic Protein (rhBMP) in spinal fusion surgeries to correct neck pain. Bone growth products such as Medtronic's InFuse Bone Graft and Stryker's OP-1 Implant and OP-1 Putty are used to treat degenerative disc disease, fractures and other bone conditions but are not approved for use in cervical fusion procedures.

### ▶ Lantus Insulin

Potential increase in the risk of cancer, particularly breast cancer, linked to the use of Lantus brand insulin glargine, a synthetic, long-acting form of injectable insulin, known as an insulin analogue, used in the treatment of diabetes.

### ▶ FMLA Violations

Claims against employers for violations of the Family and Medical Leave Act (FMLA), a federal law that permits eligible employees to take a leave of absence from their job for personal and family matters such as birth, adoption, caring for a sick child, spouse or parent, or due to their own serious medical condition.

### ▶ Tobacco Replacement Products

Potential adverse health effects, including an increased risk of oral cancer, associated with the use of alternative tobacco products containing nicotine, such as nicotine gum, dissolvable lozenges, strips, sticks, and orbs, and electronic cigarettes.