

# LEGAL LEAGUE QUARTERLY

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## WHAT HAVE YOU DONE WITH MY CLIENT?

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REMEMBER WHEN THINKING outside the box was encouraged? When attorneys were able to discuss unique perspectives and solutions with clients? The latest trend of servicers hiring national firms to oversee local counsel is causing our voices to become quieter and quieter.

With increased audits and government scrutiny throughout the default servicing industry, some servicers have begun outsourcing management of local counsel to large national

firms. Rather than streamlining the default legal practice, this trend has led to a muddling effect with state firms answering to national firms unfamiliar with state-specific laws and procedures. A national firm will sometimes take over direct management of active litigation files, requiring the local law firm to communicate with an attorney out of touch with specific state procedures and often the default practice

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*"What have you done" continued from page 1*

as a whole.

Often, a local attorney will need to spend hours on the phone educating a national firm on state law requirements. The servicing client disconnects itself with its local law firms, communicating solely with the national firm and leaving the local firm further out of touch with its own client. Although this practice may be perceived as a solution to lenders and servicers overwhelmed with default litigation throughout the country, it instead creates a further barrier to effective legal representation.

### ASSEMBLY LINE APPROACH

The attorney-client relationship is sacrosanct. An attorney must be able to effectively communicate with its client, and vice versa, or no real relationship exists. When representing corporations, this means an ability to speak directly with an individual with knowledge and decision-making authority over the issues involved. More than a legal advocate, an attorney is also a counselor who must be capable of advising the client of nuances in specific state law and giving tactical advice based on the attorney's interpretation of local ordinances and the judicial bench in a particular district. This expertise is critical to a successful relationship and successful representation.

The use of a large firm to oversee smaller local firms throughout the country may be the natural progression of the industry following its immersion in national processing companies used to manage default files. The national processing companies created the first major obstacle to effective attorney-client communication. Perhaps lawyers must accept that the advantages may outweigh the disadvantages because more and more lenders continue to welcome processing companies to assist with their default portfolios? Nevertheless, the truth of the inherent flaw in separating a lawyer from its client should not be ignored, and the latest move toward national firms will only make it worse.

An unfortunate result of a national firm managing local firms throughout the country is the furtherance of assembly line thinking—in other words, further automating an already over-automated industry. Although local lawyers are in the best position to advise as to state procedures or "best practices," national firms are being employed to audit local procedures and move toward universal procedures for all of the states. The reality is that every case is unique and one strategy does not fit all.

### LOST IN TRANSLATION

A local attorney communicating through a third party takes away its direct relationship

with its client. In many cases, an out-of-state law firm essentially becomes the "client" to the local firm and the extent of the "real client's" involvement is unknown. Without a client to communicate with, a meaningful discussion of case strategy becomes difficult, if not impossible, through a third party.

Vital communications get lost in translation, often leading to unanswered questions, poor choices, and frustration for all. This is similar to the child's game of "telephone," where the phrase at the end of the circle is never the same as it was at the beginning. This new barrier to direct client communication will create more difficulty in effective representation and can lead to serious problems such as a lawyer without a client on the eve of trial, or worse, a lawyer standing before a judge without having had an opportunity to even communicate with the client.

So why hire a national firm? Why not seek answers to questions regarding local default procedures or how best to handle a default case from the experienced local law firms hired to do just that? When did direct communication with a client become the exception rather than the norm?

Today, when all eyes are watching, solid relationships and good communication with counsel in every state should be cherished more than ever. Clients, can you hear us? ■