



MIDWEST
REPORT

TAKING THE REGION'S TEMPERATURE

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Back to the Land

Drought brings a bumper crop of legal work for region's law firms.

BY AMANDA BRONSTAD

Everyone talks about the weather. With a record drought sweeping the Midwest, lawyers in the region are doing something about it.

Some are scrambling to renegotiate contracts for clients including farmers, lenders, food processors and ethanol producers. Many of these

SEE DROUGHT, PAGE 11

Agribusiness clients are huge for law firms, and only getting bigger.

BY LEIGH JONES

Kim Clarke was raised on tomatoes—she grew up on a 500-acre farm near Grand Rapids, Mich., one of eight children whose family had worked the land for more than 100 years. Because she had the “black thumb” in the family, she said, she knew in middle school that farming wouldn't be her future.

SEE AGRICULTURE, PAGE 9

Plaintiffs' bar banks on Libor

Scandal offers a singular opportunity for variety of suits.

BY ZOETILLMAN

To plaintiffs firms, there are financial scandals, and then there is Libor.

Libor, the London interbank offered rate, is a benchmark interest rate that serves as a foundation for trillions of dollars of financial products worldwide. Suspicions that banks involved in setting the rate were manipulating it spurred investors to file lawsuits beginning in 2011. Now, a growing number of plaintiffs firms are joining the fray in light of news this summer that at least one bank, Barclays Bank PLC, admitted to misconduct.



BILL CARMODY

Lawyers say the Libor scandal is not only unprecedented in its reach, but also in its potential for litigation. “Often with a financial crisis or with a big instance of fraud occurring within a company, there's one category of litigation. There are many, many antitrust claims brought, but they're all antitrust claims,” said Hannah Buxbaum, interim dean of Indiana University Maurer School of Law-Bloomington. “Here, we're seeing antitrust claims, securities claims, [racketeering] claims. It's striking.”

More than two dozen firms have been representing plaintiffs in multidistrict litigation pending in the U.S. District Court for the Southern District of New York since last August. Since the Barclays announcement, at least a half-dozen more firms have filed new lawsuits, and others are investigating possible claims.

SEE LIBOR, PAGE 4



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BTI Consulting Group, June 2012

Shook,
Hardy &
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See what others have to say at page 10



NATIONAL NEWS

Which lawyers need coaching?

BY ADRIAN DAYTON

The quickest and most effective way to turn a lawyer into a rainmaker is through business-development coaching. So how do you pick the right lawyers to coach?

To answer this question, I interviewed one of the top business-development coaches in the country, Cordell Parvin. He practiced law for 35 years, building a book of business worth more than \$3.5 million, before leaving law firm life to start his own coaching business. "The lawyers who will be most successful in your coaching program are your lawyers whom you might think need coaching the least," he said. "They are the most motivated and they get the most out of the program because they put the most into it."

According to Parvin, the secret is finding lawyers with "fire in the belly." There is no way to determine who qualifies based solely on their books of business, but the one key attribute of a solid candidate is motivation.

THE CONNECTED LAWYER

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"I can't motivate the unmotivated," Parvin said. "I've taken a lawyer with a \$200,000 book of business and helped him turn it into a \$2.5 million book, because he was motivated. I currently coach a lawyer who has a \$5 million book of business, and the coaching works because he still wants to learn. Those are the types of people I want to coach."

Some marketing directors argued during a recent Legal Sales and Services Organization Conference that only lawyers with the largest books of business should qualify for coaching, but that hasn't been Parvin's experience. He worked with one group of new partners who realized fairly dramatic success through coaching. Only after observing their success were older lawyers with bigger books of business sufficiently motivated to undergo coaching as well.

"Every firm has three types of lawyers they put through coaching," Parvin said. "First you have those who need it the least, yet get the most out of it." Second, "those who get a lot out of it but are introverted—they may not say much, but they are very prepared and focused. Third are those who the firm is wasting money on. If the firm did a better job of selecting, they would have fewer of these."

Most firms don't really understand coaching. "There are two kinds of law firms," Parvin said. "Those that see my coaching as an expense and those that see it as a revenue generator."

In fact, while still at his law firm, Parvin coached a group of lawyers and helped them substantially increase their books of business. What recognition did he get for this feat? A pat on the back.

Firms overlook coaching because it requires a long-term strategy. Parvin described consulting with one firm where, out of 400 lawyers, only about one dozen had individual business plans. Lawyers who claimed to really understand business weren't running their own practices like businesses.

Who are the lawyers in your firm who could really benefit from coaching? Or doesn't your firm believe in the value of business-development coaching?



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Lawyers jumping on Libor scandal

LIBOR, FROM PAGE 1

"As Libor is front square center of the news cycle, people who haven't been involved are trying to do anything they can to get involved," said Susman Godfrey partner Bill Carmody, a co-lead counsel for a group of plaintiffs in the multidistrict litigation. "People are running out to get a plaintiff and get a claim so they can get a dog in this fight."

Barclays spokesman Michael O'Looney declined to comment. Representatives of the U.S.-based banks involved—Bank of America Corp., Citibank N.A. and JPMorgan Chase & Co.—likewise declined to answer questions, or did not return interview requests. A representative from Sullivan & Cromwell, which is representing Barclays in the multidistrict litigation, did not return a request for comment.

Milberg partner Andrei Rado said the Libor scandal bears some similarities to financial scandals of the recent past, such as the subprime mortgage crisis. "It's similar to them in the sense that it involves a multitude of banks, a multitude of instruments and...relatively diverse potential plaintiffs," he said. But Libor is in a category of its own when it comes to its influence on the global economy, he said, calling it "staggering."

FALSE INFORMATION

To set the daily Libor rate for the U.S. dollar, a panel of sixteen banks set by the British Bankers' Association submit information on the rates they could borrow funds. Thomson Reuters calculates Libor and its European counterpart, the Euro interbank offered rate, or Euribor, for the association.

On June 27, Barclays admitted to trying to manipulate Libor and Euribor to benefit its own derivative traders and protect its reputation by submitting false information. By submitting artificially low numbers, regulators alleged, Barclays gave a false impression of its financial health.

The Barclays settlement "really heightened the financial world's consciousness of Libor manipulation and put it on a front burner," said Quinn Emanuel Urquhart & Sullivan partner William Urquhart, in an email interview. He said his firm has been hired by several companies to investigate potential Libor claims but the firm has not filed any Libor-related actions to date.

The most common Libor-related claims filed so far are for violations of antitrust law, with plaintiffs accusing the Libor-setting banks of conspiring with each other to manipulate the rate.

Before the Barclays announcement, plaintiffs were primarily investors who bought financial instruments from banks involved in setting Libor. The mayor and city council of Baltimore, for instance, lead plaintiffs for one of the groups in the multidistrict litigation, purchased several hundred million dollars in interest-rate swaps from at least one of the banks with a rate of return that was tied to Libor. By artificially depressing Libor, Baltimore alleged, they were deprived income.

Other groups of plaintiffs include investors who traded Eurodollar futures tied to Libor through public exchanges;



SCANDALOUS: Andrei Rado of Milberg, left, says Libor scandal bears similarities to recent financial scandals. Hannah Buxbaum, below, said the Barclays settlement gave a big boost to new and existing cases.



individuals who owned debt securities and were paid interest based on Libor; and financial institutions, notably Charles Schwab Bank N.A., which bought financial instruments from banks involved in setting Libor.

Carmody, who is a co-lead counsel for Baltimore and related plaintiffs, said he's expecting more firms to file "tag-along suits," although he warned that the window to join is closing as the cases move forward. Buxbaum said interest seems to be growing among municipalities that, like Baltimore, bought financial instruments tied to Libor. "That would be a very significant potential group of plaintiffs," she said.

The Barclays revelation opened the door to new securities fraud claims by investors in the Libor-setting banks, said Avi Josefson, a partner at Bernstein Litowitz Berger & Grossmann. If Barclays got the best deal by agreeing to come forward first, he said, settlements for other banks could be even larger. "That's another wave of litigation," he said. His firm has been fielding inquiries from clients trying to understand the effect of Libor but is not involved in any current litigation.

EVIDENCE OF COLLUSION

New cases filed since the Barclays revelation have run the gamut.

On July 10, plaintiffs who bought American depository receipts—negotiable certificates representing foreign stocks that are traded on U.S. exchanges—in Barclays filed a class action against the bank for securities violations. They're represented by New York's Wolf Haldenstein Adler Freeman & Herz. A group of New York banks, represented by New York's Pomerantz Haudek Grossman & Gross, sued the Libor-setting banks on July 25, claiming that the alleged manipulation of Libor cost them income because they set lower interest rates on loans.

Libor's reach and complexity may make it fertile ground for plaintiffs firms, but lawyers warn that it can also complicate litigation. Urquhart said that if U.S. regulators do settle with other banks, for instance, some financial institutions may choose to opt out of any class action settlement to try and pursue claims on their own. Carmody said it was too early to consider how plaintiffs might respond

to a settlement, but he defended class actions as a more efficient way to prosecute these types of cases.

Milberg's Rado said defendants likely will argue that the courts should limit any possible liability to plaintiffs who had direct interactions with the banks, as opposed to anyone with a connection to a financial instrument that was tied to Libor. "The breadth of these cases could be a challenge," he said. He said his firm has received inquiries from clients but isn't involved in any litigation so far.

Buxbaum said plaintiffs lawyers will also need to pay attention to geography, especially when it comes to banks that aren't based in the United States. U.S. courts have been moving toward limiting the application of American regulatory laws to activity overseas, she said, so plaintiffs will need to be clear about where they bought the financial instruments at issue.

Still, Buxbaum said, the Barclays settlement gave a significant boost to both new and existing cases. "These claims are obviously more difficult to bring and more difficult to sustain against motions to dismiss unless you have evidence of the collusion that you're trying to argue," she said.

Hausfeld partner William Butterfield, co-lead counsel with Carmody in the multidistrict litigation, agreed. "The story is being told every day, little by little," he said. "We were pleased to see that there was information disclosed through the Barclays orders and hope that regulators continue to pursue action and disclose additional information."

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