

# Food For Thought

## Opportunities Facing Freelance Reporting

BY ARTHUR RICHARDSON

Freelance court reporting has been evolving since I was a young reporter a little more than 42 years ago. Freelance firms, at that time, were small, fragmented, and undercapitalized. I remember in 1965 when there couldn't have been more than 10 freelance firms in Houston, Texas. During the litigation explosion of the late 1960s and 70s, while the firms were still small, fragmented, and undercapitalized, their numbers were growing by leaps and bounds.

In the early 1980s, when computerized reporting first began to make inroads in the industry, firm owners were confronted with expanding their business and technology skills. Technology and its child, the Internet, changed how we thought about business; this new technology meant we were less and less confined by a small geographic area. Technology not only redefined my generation's way of thinking, but also changed our whole thought process.

My own introduction to technology began with a small company named Xscribe. Its computer system — even though it was proprietary and had closed architecture — opened me up to new possibilities. This change obviously had a similar effect on others, because in 1983 my partner, Al Farrack, and I met Cary Sarnoff, Bill Greenley, Ken Combs, Marc Brody, and Jim Hartnett, all who used the same computer system from Xscribe. Together, we formed National Network Reporting Company (<http://www.nnrc.com/>), which is still in existence.

When we started our adventure, we knew what it was we were trying to accomplish but were vague as to how to get there. We had learned early on that with the computer we could do a lot of things we could not do when we were still dictating our notes. For example, my partner and I could refer one of our regular Houston clients to Combs & Greenley in San Francisco, Hartnett & Cateloni in Chicago, Brody & Gieser in New Jersey, or Sarnoff Deposition Service in Orange County. After a deposition in another city, the transcript could be telecommunicated back to Houston, where we could deliver it to the lawyer's office before he got off the plane. It probably seems like a little thing now, but, at the time, that was technology at its finest!

Each time we would attend a convention or seminar, some freelance firm owner would show up and ask what we were doing there. The result was that we started allowing one freelance firm in each major city around the country to join NNRC. We even included firms in Canada and the United Kingdom. We eventually grew to more than 38 firms and met once every nine months in different parts of the country. It was great. We were all friends, and if someone were having an issue, someone else had already solved it and shared the solution with all of us. Plus, we were all referring work back and forth and

making money and lifelong friendships.

Something else we were doing was enlarging our businesses and our minds. We were learning sophisticated business strategies that moved several of us to envision court reporting as something that could be practiced regionally, nationally, or even internationally.

At the same time, investment bankers around the country began to take a look at freelance court reporting and started talking to us about the possibility of combining multiple firms into one large firm so we could take advantage of efficiencies of scale and could service regional, national, or even international law firms. The litigation sector of the legal service market was growing by 10 percent a year, and it made a lot of sense. Freelance court reporting was undergoing the same growth that was pushing the development of other, more sophisticated technology. Almost overnight, companies such as Esquire, LegaLink, Merrill, Spherion, and U.S. Legal Support appeared, and freelance court reporting was no longer small, fragmented, or undercapitalized. It had joined its big brothers and sisters, other companies being pulled into a global business economy.

Let's take a look at the industry as it exists today. We have national and international freelance court reporting companies, but we also still have small, fragmented, and undercapitalized reporting firms. They are serving their own niches and doing it rather well.

The lesson is that, regardless of size, court reporting is still a relationship business. The difference between small firms and large firms is, obviously, capital and infrastructure. Small firms cannot offer all the services to large law firms or national dockets that large firms can, which sometimes inhibits small firm owners who have the relationships to compete, but not the infrastructure to service.

One thing has changed. The freelance court reporting industry is no longer growing as it did in the 1980s and 90s. Tort reform can take responsibility for that. George W. Bush initiated the tort reform agenda while he was still the governor of Texas. As president, he has pushed this agenda throughout the United States, and it is currently changing the practice of law and freelance court reporting around the country. The later stages of this movement have forced plaintiff's law firms to come together as they have never done before. They are collaborating so they can share the cost of overhead expenses, and others are joining forces to prosecute national dockets such as Phen-Fen, asbestos, manganese, silica, and Vioxx. These dockets need companies with large infrastructures to service them. But I would suggest that small, fragmented, and under-capitalized firms do not need to be squeezed out of the process. Far from being alienated from this type of business, small firm owners need to be encouraged to use their relationships to enter joint venture deals with the larger firms. The larger companies, while having the infrastructure to service large dockets, may not have the relationships to do so. Those differences provide an opportunity for smaller firm owners to work out joint venture deals with larger companies. These joint ventures are mutually beneficial, and they work.

Corporations offer yet another opportunity for smaller freelance firms. Corporations are choosing more and more to control their own litigation rather than to outsource it to large law firms. Sarbanes-Oxley laws are pushing corporations to control and identify each dollar spent, which includes their litigation costs. Small, fragmented, and undercapitalized court reporting firms who have relationships in these corporations can consider partnering with larger court reporting firms to enter into win-win accord.

Freelance firm owners can emulate some of the things that law firms are doing to survive, such as sharing overhead expenses and learning to joint venture with larger firms. They can get away from specializing in certain areas of the docket that are being hit the hardest by tort reform. Law firms specializing in defending dockets such as silica and asbestos are going out of business and dissolving their firms. Freelance firm owners need to diversify, and their larger counterparts can help them in their expansion.

One of the strategies that works very effectively is called a “tuck-in strategy.” This strategy is where a smaller firm owner makes a deal with a larger firm to take its work to the larger firm to manage, thereby eliminating overhead costs. This strategy works extremely well, and I can recommend it to those who are not afraid to break with traditional forms of doing business. A firm owner I know doubled his business while tripling his margins. A tuck-in requires trust and an up-close and personal negotiation process, but it is not one to fear.

Another opportunity worth pursuing is referring litigation support projects to larger firms: projects such as electronic data discovery, or, since the federal rules were amended in December, electronically stored information. These amended rules change the scope of electronic discovery. Law firms and corporations are still trying to understand its parameters. This creates an opportunity for those individuals who wish to take advantage of the evolution of technology. But unless a court reporting company has the ability to furnish scanning, blowbacks, or data storage in gigabyte or terabyte quantities, that firm owner might want to consider developing a joint venture relationship with some of its clients to provide these services.

It may be time for small to mid-size firm owners to begin thinking outside the traditional box with regard to their business strategy. Developing relationships with their larger brothers and sisters may provide them the strategy to not only exist in a tort reform environment, but to thrive in one.

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