Reprinted from THE WALL STREET JOURNAL.

WEDNESDAY, DECEMBER 31, 1997

THE WALL STREET JOURNAL.

MARKETPLACE

Tiny Firm Prospers Paring Fees DuPont's Way

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Staff Reporter of The Wall Street Journal

How does a law firm with only seven attorneys wind up with a hefty chunk of **DuPont** Co.'s business?

By doing things DuPont's way. That is, renouncing many of the practices that help line the coffers of big-league corporate firms.

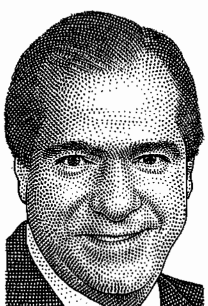
Tiny Leader & Berkon handles most of DuPont's litigation in the New York area, work formerly spread among a dozen firms. It got the assignment by answering in the affirmative when the Wilmington, Del., chemicals giant polled outside firms about reining in costs.

Leader & Berkon offers discounts and flat rates for some legal services. It can't bill for hours of research by hordes of

LEGAL BEAT

junior associates — it employs only three. It won't litigate to the bitter end when disputes cry out for simpler solutions. And to avoid redundant research, it agreed to join a secure computer network that lets all DuPont's outside attorneys scan one another's motions and memorandums in similar cases.

DuPont's relationship with firms like Leader & Berkon offers a new model for companies buying legal services. The company slashed its list of outside law firms from 350 to 34 three years ago, requiring survivors to offer up to 20% discounts in exchange for greater volume. As a result, DuPont says it is saving $7 million to $10 million a year on a total outside legal budget of about $50 million.



Frederick Berkon

Other companies using innovative ways to cut legal costs include **Motorola** Inc., **Monsanto** Co. and **Whirlpool** Corp. Monsanto and Whirlpool have also hired Leader & Berkon.

Some lawyers warn of "another side to all this downsizing and supposed efficiency," in the words of Robert Fanter, a litigator in Des Moines, Iowa, and president of the Defense Research Institute, a legal trade group. He complains that the legal business today is more cutthroat than it once was, with clients second-guessing bills and demanding ever-faster work for less money.

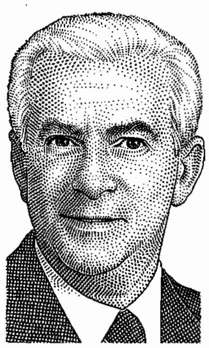
But Leader & Berkon's James Leader insists nimble firms can capitalize on the flux. "We win, too," he explains, "not only because of the guaranteed business, but because DuPont has helped us to improve technology, referred other clients, and encouraged us to cooperate with other law firms in ways we never would have imagined a few years ago."

Law-firm behavior is slowly moving in Leader & Berkon's direction, says Daniel Mahoney, a Wilmington consultant and former DuPont staff lawyer. "You are going to see the gradual disappearance of law firms that run the meter on phalanxes of young lawyers toiling away in the library."

Consider Townley & Updike, the medium-size New York firm where Mr. Leader and his partner Frederick Berkon cut their litigation teeth. For years one of DuPont's main New York firms, Townley & Updike resisted discounts and other changes. In 1994, DuPont removed the firm from its preferred roster. In 1996, struggling to keep other clients as well, the firm shut down.

Messrs. Leader and Berkon had left Townley & Updike in 1988 to form their own partnership with a we'll-try-anything-once philosophy. "We literally have no stated rates; it's all open to negotiation," says Mr. Leader, 51 years old. He and Mr. Berkon, 50, generally charge between $250 and $350 an hour, which is considered a bargain for veteran New York litigators. They offer flat-rate deals, too. They keep overhead low; besides the trio of associates they have a support staff of only five. Their midtown offices are modestly decorated and snug.

The new partnership got a big boost in 1994, when DuPont announced its law-firm "convergence" program as part of a broader cost-cutting campaign. DuPont's annual outside legal bills had bulged to $100 million that year, as it was besieged by suits over products such as its Benlate fungicide, which users blamed for destroying crops. DuPont decided to apply modern principles for procuring paper clips and office furniture to the musty law market: Cut the number of vendors and cultivate their loyalty.



James Leader

Selected for the DuPont team, Messrs. Leader and Berkon soon saw their DuPont docket grow from two or three cases at any given time to 15, which amounts to 20% of their workload. Thomas Sager, an associate general counsel at DuPont, says the company liked the firm's knack for extricating it from lawsuits early.

Leader & Berkon forsook the usual deluge of depositions and motions in a 1995 New York federal court suit against DuPont and four other companies. The suit was filed by a woman complaining of "immunotoxicity syndrome" allegedly caused by chemicals in the carpeting in her home. Aided by DuPont scientists, Leader & Berkon tried the risky gambit of laying out for the plaintiff's lawyers its entire theory of why DuPont-made carpet fiber couldn't have caused her ailments.

"It was a unique experience for me," the plaintiff's attorney, Juan Bauta of Miami, says admiringly. It's typical, he says, for defense firms to argue that their client doesn't belong in a case. But Leader & Berkon gave him empirical proof — namely, the secret chemical recipe for DuPont's fiber.

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Law Firm Cuts Fees for DuPont

In September 1996, Mr. Bauta dropped DuPont from the case, without the company paying a dime. Today, 15 months later, the suit grinds on against the other companies, including the distributor and installer.

Confident of a steady flow of DuPont business, Messrs. Leader and Berkon take other risks. They found that DuPont managers who feared racking up hourly legal bills hesitated to seek advice about credit and bankruptcy-law problems.

So Leader & Berkon and DuPont agreed on an annual flat fee in the low six figures — they won't say exactly how much — that covers open-ended credit and bankruptcy counseling to all of DuPont's divisions. Now DuPont has an expert on call in Mr. Leader, who in turn can say to other potential clients that he oversees credit counseling nationally for a company with $44 billion in sales.

DuPont still employs some large firms. In New York, for example, Rogers & Wells handles esoteric intellectual-property matters. But DuPont leans toward smaller firms, says Mr. Sager, because "they are more dependent on our business" and therefore more responsive.

Rather than reinvent the wheel on each case, DuPont's law firms are expected to draw on one another's expertise — a rare exercise in cooperation that has broken down the usual suspicion among rival firms. Leader & Berkon recently answered questions on New York law that arose in a Texas antitrust case being tried for DuPont by Chicago-based Bartlit Beck Herman Palenchar & Scott. A Minneapolis firm, Faegre & Benson, has distributed to other DuPont attorneys its proprietary 600-page book on defending against suits involving agricultural products.

"We are letting the other firms see the family jewels," says Gardner Courson, a partner with Glass, McCullough, Sherrill & Harrold, DuPont's firm in Atlanta. He's sharing his employment-law briefs.

Linking the DuPont firms with the company's own computer network saves precious hours and tens of thousands of dollars a month in overnight-delivery costs. In the early 1990s, the company spent an average of $156 in salary and administrative costs to process each of the more than 1,000 legal invoices that came in monthly, says Mr. Mahoney. Electronic billing cut the cost in half, saving about $1 million annually.

From headquarters in Wilmington, Mr. Sager can use his desktop computer to monitor precisely what Leader & Berkon–or any of the 33 other firms plugged into the company's network — are doing with any DuPont case. He is beginning to use this technology to crunch comparative statistics showing, for instance, which firms take depositions most efficiently.

DuPont gives out $2 million a year in cash bonuses to reward cost-effective firms. Leader & Berkon received an undisclosed share of the 1997 prize.

Another prize for Leader & Berkon is new client **Arthur Andersen** LLP, which became acquainted with the little law firm while providing DuPont with consulting services.

Messrs. Leader and Berkon won't reveal their total revenue, but say the DuPont account and related referrals contributed to an increase of about 15% this year over 1996. They have big plans for 1998: hiring two additional lawyers.