

Timing of Morgan Stanley's Broker Protocol Withdrawal Sends Shocks Through RIA Legal and Recruiting Circles, RIABiz, ft. Nancy Hendrickson

Nancy L. Hendrickson, partner at Kaufman Dolowich & Voluck's Chicago office, was quoted in *RIABiz's* coverage of the Morgan Stanley recruiting protocol withdrawal.

October 31, 2017 — 3:08 AM UTC by Brooke Southall

Brooke's Note: Arguably, the Broker Protocol, established in 2004, was the gift from the Wall Street gods that got the RIA business to critical mass, allowing breakaway brokers to leave with their client assets without getting their asses sued off. That was the good news. The accompanying bad news came in the form of the implicit insult from the wirehouses to RIAs: You are the flies I swat from my large bovine body — irritating but irrelevant. The ostensible bad news delivered Monday is that Morgan Stanley is shutting down the Protocol party. The good news is that the biggest wirehouse was kind enough to wait until it barely matters to RIAs. Yes, there will be more stories of individual pain as brokers fumble exits. But the impetus to leave — or to never join a wirehouse in the first place — is about to get sharper. Advisors don't want handcuffs. Clients don't want an advisor handcuffed to a broker. They want an RIA.

"The net effect is predictable," says Nancy Hendrickson, a securities litigation partner in the Chicago office Kaufman Dolowich & Voluck LLP, in prepared remarks.

"It remains to be seen whether Morgan Stanley's action starts a stampede for the exits from the Protocol for broker recruiting. Nonetheless, it seems reasonable to expect litigation arising out of recruiting in the financial services industry to increase."

Nancy Hendrickson: "There have been some multi-million dollar awards in recent years arising out of mass hiring situations, notwithstanding the fact that both firms involved were Protocol members."

"The practical effect of the Protocol was to sharply curtail litigation among Protocol signatories arising out of their recruitment of one another's experienced financial advisors, however, the Protocol did not end all litigation arising out of broker transitions," says Hendrickson. "There have been some multi-million dollar awards in recent years arising out of mass hiring situations, notwithstanding the fact that both firms involved were Protocol members."