



Legal Mosaic: Essays on Legal Delivery



Table of Contents:

- Introduction -- The Delivery of Corporate Legal Services:
It's a New Ballgame
- Towards A New Model of Legal Delivery
- Stress Cracks and Repairs to the Big Law Structure
- Lawyers, Cabbies, and Uber
- Who Do I Sell To? Selling Legal Services is a New Ball Game
- Memo to File: Keep it Simple
- What Law Firms Can Learn From Amazon and Wayne Gretzky
- Legal Practice and Legal Delivery: An Important Distinction
- Lawyers, Law Firms, and a Sophisticated Buyer
- What's a Quality Law Firm?
- Law Firm Networks: A Quiet Giant
- Memo to Lawyers: The Customer is Always Right
- By Stealth or By Storm: The Big Four and the Legal Market
- More Big Ripples from Across the Pond
- Bulking up and Flexing: The Shell Way
- A Glossary of Legal Terms



The essays in this collection were all initially published online at [Bloomberg BNA.com](https://www.bna.com) and [LegalMosaic.com](https://www.legalmosaic.com).



Introduction

THE DELIVERY OF CORPORATE LEGAL SERVICES: IT'S A NEW BALLGAME

The legal marketplace is undergoing a dramatic shift. The corporate segment of the legal market- the focus of this collection of essays- was, until recently, dominated by a relatively small number of corporate law firms that had a stranglehold on the legal work outsourced by corporate America. In the not so distant past, these firms typically handled all aspects of a client matter- from high-volume/low-value to outcome determinative tasks – and took advantage of their dominant market share to grow into multinational, multi-million dollar enterprises, with similar partnership models built on leverage,

With the advent of digitalization, the volume of data exploded. This was initially a boon to large law firms that profited mightily by deploying large phalanxes of high cost (and margin) associates to handle document review for litigation. But the bubble finally burst and clients began to direct this facet of outsourced work to a growing number of legal process outsource (LPO) companies that utilized labor arbitrage and technology to deliver it at significantly lower rates than law firms.

Disaggregation and the legal supply chain were born. And in the decade and a half or so that has followed, more and more “legal” tasks formerly performed by law firms are now redirected to a widening array of legal service providers. These new entrants to legal delivery are not constrained by the same regulatory, practice, and Bar rules as law firms that are “engaged in the practice of law.” That means service providers can accept institutional funding, share profits with non-lawyers, engage in inter-disciplinary practice, and even launch IPO’s.

Service providers have come into being as a “faster, cheaper, better”



alternative to law firms for certain tasks. Their DNA springs from this market need, and their structures, economic models, and approaches to delivering legal services are fundamentally different than law firms.

Service providers tend to be more client centric than law firms; they do not gauge success by profit-per-partner (PPP) because there are no partners. They have a corporate structure and- unlike law firms whose approach to legal delivery has remained largely static, service providers offer a seat at the management table for technologists and business experts as well as lawyers. This inter-disciplinary approach to legal delivery plus investment in technology and process has enabled them to steadily gain larger market share and to migrate up the complexity chain of outsourced tasks.

In-house legal departments have also grown in size, influence, and, portfolios during the new millennium. Many of them bear striking structural and operational similarities to the law firms. And while many in-house departments have succeeded in reducing overall legal spend- in part because they do not have a partnership model and typically possess superior knowledge of their clients' business- they generally focus on reducing legal cost rather than innovating its delivery.

Even so, corporate legal departments, not law firms, are, with legal service providers, driving change in the delivery of legal services. For example, many large corporate departments are segmenting buying decisions among the General Counsel, Chief Legal Operations officers, and Procurement Departments. And other, non-legal silos within corporations- notably IT- are now involved in the vetting of legal suppliers. Engagement of legal services, once a cozy, relationship-driven process, has become a more disciplined, competitive, and value-driven one reflective of the ever-expanding legal supply chain. Metrics are finding their way into buying decisions and supplier evaluation. And while this process remains focused principally upon cost, it is only a matter of time before clients measure outcome too.



Corporate legal delivery has morphed from legal expertise to a three-legged stool supported by legal expertise, technology, and business process. And while the perception remains that law firms have the edge when it comes to legal expertise, there is a growing recognition they cannot compete with service providers in the efficient, cost-effective, value driven and transparent delivery of many tasks. Significantly, clients- not law firms- decide what are “legal” tasks and what are business or technology issues. Translation: lawyers are no longer calling the shots; clients are.

But with disaggregation and the creation of a legal supply chain comes the need for (re) integration of legal delivery. And this begs the question: who will be the straw that stirs that drink (to paraphrase “Mr. October,” Reggie Jackson)? This is the over-arching question confronting the legal market -- the question that underlies the various changes examined throughout this collection of essays. Will law firms or others like the Big Four, service providers, legal networks, technology companies (think: “Uberization” of legal services) or reconstituted law firms do so and, in the process, become the dominant player in legal delivery?

While the legal market is in the midst of this period of dynamic change, one thing is clear: lawyers- like physicians, accountants, and other professional service providers before them- are beginning to see their services delivered in a very different fashion. There’s no way back to the salad days for corporate law firms when they enjoyed complete control of the market.

<http://legalmosaic.com/>

<https://bol.bna.com/author/mcohen/>



Towards A New Model of Legal Delivery

A “SELFIE” OF THE CURRENT LEGAL LANDSCAPE

The legal field is in a state of flux—many would say decline. I prefer re-configuration. The forecast is bleak. There’s considerable evidence to support the glum outlook: law school enrollment is declining; student debt is escalating; the job market for lawyers—newly minted and old-hands alike-- is the worst it has been in decades, and even lawyers with jobs are generally dissatisfied and anxious about their future.

A great deal has been written about the legal industry’s woes—the causes for its decline have been sliced and diced with Ginsu-like precision. The reasons are by now well-known even to those who only casually follow the legal vertical--the effects of technology and outsourcing (as well as “in sourcing”), the dizzying array of “alternative providers” encroaching on what was once the exclusive domain—and revenue source—of law firms, the impact of the U.S. regulatory scheme in contrast to the UK, as well as the sustainability vel non of the current law school curriculum where the consensus—and market response-- is that graduates are not “practice ready” and clients are no longer willing—as they once were — to pay for on-the-job-training. This segmented depiction of the legal marketplace is reminiscent of the cubists; perhaps it is time to move beyond that to a more post-modern rendering of the legal landscape.

THE LEGAL DELIVERY MODEL AND THE CUBIST PERSPECTIVE

When Picasso and Braque pioneered the cubist movement, they radically altered both the artist’s rendering of a subject as well as the viewer’s process of interpreting it. Let’s consider “Three Musicians”, an exam-



ple of Picasso's late Cubist style. In Cubism, the subject of the artwork is transformed into a sequence of planes, lines, and arcs. Cubism has been described as an intellectual style because the artists analyzed the shapes of their subjects and reinvented them on the canvas. The viewer is left to reconstruct the subject and space of the work by comparing the different shapes and forms to determine what each one represents. Through this process, the viewer participates with the artist in making the artwork make sense. It is for the audience to cobble together the multitude of seemingly disparate images and elements to represent the subject in a greater context. This appears to be the approach that many legal pundits are taking to the way they paint the current legal landscape; they translate the once monolithic legal topography—one where a law firm “handles the case” start to finish (including back-office functions)—into a cubist rendering that identifies and isolates different parts of the process that now include additional providers outside the firm. Each provider in the supply chain is analyzed exhaustively, but the viewer—as with the cubist painters-- is left to make sense of these seemingly disparate actors in the supply chain and, more particularly, how they mesh.

Let's start with a term that has come to frame the discussion of the legal industry:

UNBUNDLING

Unbundling is a neologism initially used to describe how the ubiquity of mobile devices, Internet connectivity, consumer web technologies, social media and information access in the 21st century are affecting older institutions such as education, broadcasting, newspapers, games, shopping, etc. These new devices break up the packages (think: law firm “handles the case”), replacing them with particular parts at a scale and cost unmatched by the old order. Unbundling has been called “the great disruptor”.



Unbundling has accelerated in the legal marketplace. Staffing companies were early entrants into the process, followed by legal process outsourcers (“LPO’s”), and a stream of legal service providers (not all of whom are lawyers) who took on pieces of “legal work” (query: was it all really “legal” work in the first place?) and did so at a fraction of the price of what law firms charged for those same tasks.

Today, the list of legal suppliers (“unbundlers”) has grown in breadth and depth, transforming procurement of legal services as well as the legal delivery process. Here is a partial list of legal supply chain players:

- LPO’S
- STAFFING COMPANIES
- LEGAL DOCUMENT COMPANIES
- LEGAL TECHNOLOGY PROVIDERS
- E-DISCOVERY COMPANIES
- “ALTERNATIVE PROVIDERS”
- “SECONDARY BRANDS”

Like the cubists, each of these players in the legal landscape has been analyzed exhaustively, usually with an emphasis on current or prospective revenue. But what is needed is a holistic view of all the providers and a paradigm for how and when they can be utilized in a risk and cost appropriate manner. Even more important is: who will manage the process and by what means—human and technological—will it be achieved? In other words: who will integrate the legal supply chain and how?

INTEGRATION

Integration (from the Latin integer, meaning whole or entire) means combining parts so that they work together or form a whole. In the legal context, this means uniting the daisy chain of legal service providers and integrating them via technology, project management, and legal expertise. This requires us to go beyond the cubist rendering of the legal landscape and to engage in a very different rendering of it. It is



no longer sufficient to identify and to draw attention to the component parts; now, their interaction must be expressed.

WHO WILL BE THE NEXT REGGIE JACKSON?

“Mr. October”, Reggie Jackson, was asked what he saw as his role on the 1977 New York Yankees who went on to win consecutive World Series. He remarked with characteristic modesty, “I’m the straw that stirs the drink.”

In moving beyond a cubist view of the legal landscape, more focus—and training—should be given to “who is the straw that stirs the drink?” in the legal delivery model. There is an ever-expanding list of service and product providers jockeying for market share. To reap the benefits of this unprecedented surge of new market entrants and competition in the marketplace, it is time to move past identifying and dissecting the list of individual provider options and to focus on who will put them together and by what means.

Put another way, who will be responsible for managing the integration? If it is to be lawyers, then this calls for a different arsenal of skill sets than have traditionally been provided by law schools. As noted, lawyers are already working more frequently with a cadre of para-professionals as well as with professionals from other disciplines. And should the regulatory climate in the U.S. change as it has across the pond, that dynamic will surely accelerate. The discussion should be focused on what it means to be a lawyer in the rapidly evolving legal marketplace.

Law firms will continue to change as many of the tasks they had formerly performed (basic legal research, deposition summaries, sifting through production responses) are already being conducted by other providers with whom they must now compete and/or collaborate. So too will many of the services law firms now perform—such as contract



modifications and basic legal research to cite but two examples—increasingly become “productized”. That is already happening with regulatory updates such as “50 state surveys” which are rapidly being sold as a subscription product rather than as a service. Legal Zoom, Rocket Lawyer, and other document providers will not replace lawyers entirely; they will, however, severely limit the scope of what lawyers do.

In the end, lawyers, like doctors, will be left to do what they are trained for—to exercise their independent professional judgment. New legal jobs will emerge—such as process and project management as well as IT-related roles—and the meaning of what it means to be a lawyer will continue to evolve. Legal educators must be sensitive to these changes so they can provide law school graduates with the skills necessary to vie for these new positions. But this will require an understanding of the current legal landscape—often lacking in the legal academy—as well as a willingness to change the law school curriculum. Recent action by the ABA suggests that such change is no longer an elective course.

One thing is certain: we are moving from a cubist landscape to a post-modern one where transparency, efficiency, predictability, collaboration, and technology will dominate the foreground.



Stress Cracks and Repairs to the Big Law Structure

It's hardly news when a law firm delivers legal services in concert with another firm or service provider. Disaggregation of legal services has been around for some time, even if its scale, scope, and complexity continue to expand.

But it is news when a Goliath law firm partners with a legal service provider to promote client value. That is evidence—at least to me—the traditional law firm structure has stress cracks and some firms are taking steps to repair them.

THE DLA-LOD ALIGNMENT: IT'S COZY AND DIFFERENT

DLA Piper announced recently that it is forging a partnership with Lawyers on Demand (LOD), a UK-based legal staffing company with about 500 attorneys. The alliance, initially focused in the UK, is intended to expand to other regions after its roll out next year.

On the face of it, that's not big news. LOD counts approximately 20 other law firms as clients. Staffing companies have supplied lawyers to law firms and in-house legal departments for decades. But the LOD alignment with DLA is different. Jonathan Brenner, LOD's co-Founder characterizes it as “bespoke” and “the first of its kind.”

WHAT'S SO DIFFERENT?

DLA had initially planned to launch its own “captive” flexible resourcing venture but opted instead to partner with LOD because of its track record, size, and turnkey capability. DLA no doubt realized that its high



rates were no longer palatable for certain types of work.

Enter: LOD and its corporate structure. Note: many of LOD's lower-priced legal talent were alumni of DLA. Translation: same lawyers-different uniforms. And those lawyers now deliver the same work from corporate, not traditional law firm structures (and price points).

The law firm delivers specialized legal expertise and high-value judgments-service providers do the rest. And law firms manage supply chain integration and delivery. This is a snapshot of the future.

DLA is no stranger to aligning itself with "alternative providers." It was an investor in Riverview Law, a move that created no small amount of friction among DLA partners, many of whom knew nothing about the investment until after-the-fact. And in the alliance with LOD, it turns out many of the service provider's contract attorneys are "alumni" of DLA.

It's also noteworthy that LOD was spun off from Berwin Leighton, who initially owned a controlling interest in the staffing company. Many of LOD's lawyers are "alumni" of Berwin Leighton.

See a pattern here?

WHERE ARE THE STRUCTURAL CRACKS IN LAW FIRMS?

Disaggregation, heightened competition, an influx of new legal providers with corporate structures, competition from in-house departments, and value driven clients are stressing the traditional law firm structure. While PPP remains high among a shrinking number of law firms (law's one-percent), the long-term sustainability of the traditional law firm structure is under attack.

And so, law firms are increasingly focused on ways to tinker with a



structure that is inalterable- unless a firm was to disband and reconstitute with a different business model. Some firms have pursued a “bigger is better” strategy, but that is just kicking the structural problem down the road. What DLA has achieved in its partnership with LOD is something different: a first step in structural reconfiguration.

Such collaboration may not be a panacea, but it *does* promote some important objectives: client value, market differentiation, revenue recapture, and (partial) structural readjustment.

Many firms are making internal adjustments to promote efficiency. DLA and White & Case are two among several large firms that have recently opened “shared office centers.” While this is good for the firm’s bottom line, such internal adjustments-unless accompanied by rate reductions-do little for clients. In contrast, law firm “partnerships” with service providers can bring significant value to clients.

OTHER FIRMS ARE HEDGING THEIR BETS, TOO

DLA might be the first mega firm to partner with an outside staffing company in a “bespoke” (read: systemic) way, but it is by no means the only firm to hedge its bets. A host of UK firms have launched “captive” staffing arms, albeit under different brand names. Allen & Overy (Peerpoint), Pinsent Masons (Vario), and Eversheds (Agile) are among the ever-expanding list that have done so.

The ascendancy of in-house legal departments and the hyper-competitive and disaggregated market for legal services are putting great stress on the traditional law firm partnership structure. Allen & Overy, has taken steps to address this, for example, by its launch of several subsidiaries. These entities offer, in effect, “five flavors of legal services.” And not so long ago, all of those services were delivered by the firm itself-at higher price points and larger margins.



Can law firm service provider “spin-offs” compete with companies built specifically to address key delivery components such as eDiscovery, contract management, cyber-security, and data management? And would law firms be better advised-as DLA elected to do- to turn to a proven provider such as LOD instead of building out subsidiaries on their own?

Time will tell, but my hunch is that strategic partnerships with top providers are likely the better option for most firms. After all, work is being taken from those firms *precisely because* the best of those providers can do it as well or better, more efficiently, and far more cost effectively than law firms.

Bottom line: disaggregated services no longer align with the traditional law firm structure. And corporate clients, increasingly, are making buying decisions with that in mind.

SIMILAR CHANGES ARE UNDERWAY ON THIS SIDE OF THE POND

One might infer that the level of activity between law firms and legal service providers is greater in the UK than the US because of the different regulatory climates. After all, the UK’s sanction of Alternative Business Structures (ABS) has kick-started competition, new entrants into the legal marketplace, and has promoted a more client centric approach among new entrants.

But market conditions in the U.S. - by far the world’s largest legal market- are causing prescient law firms to address structural limitations identical to their UK counterparts. And this goes beyond limiting the number of equity partners, bringing in lateral rainmakers, and merging with other law firms.

Altman Weil’s 2015 survey of CLO’s found that 40% of corporate legal



departments plan to decrease legal spend next year. And among those surveyed, a significant percentage- almost 25%- responded they would rely more heavily on legal service providers (in place of law firms). Add to that the recent Citibank report that projected nearly flat demand growth for law firm services, and its going to be tough sledding for most law firms.

Stephen Poor, the astute Chairman of Seyfarth Shaw, recently offered a prescient reading of these tealeaves. In a post appearing in *Bloomberg Big Law Business*, he noted that “we are seeing structural, rather than cyclical, change in corporate legal buy.” He further observed that this environment “requires each firm to reimagine its role in the changing ecosystem,” noting that no one response fits all firms. He concluded: “All of us, however, can benefit from one shared mandate: to understand the evolving needs of our clients and how that leads to a strategic repositioning of corporate legal buy.”

So true! And Mr. Poor practices what he preaches- Seyfarth has consistently been well ahead of the curve in its client-centric restructuring of legal delivery.

ANOTHER EXAMPLE OF COLLABORATION

Goodwin Procter and Kaye Scholer are two other firms that have taken bold steps to confront their structures and the “strategic repositioning” of corporate legal buyers. Each of these firms has entered into a collaborative partnership with UnitedLex, a diversified legal and business solutions company, in an effort to drive client value. UnitedLex provides end-to-end data and technology related services (hosting, project management, eDiscovery, and a range of other functions). The service provider embeds its team of highly trained professionals in the firm that is relieved of a significant amount of fixed costs – while increasing capability and reducing risk.



It appears to be an “everybody wins” arrangement. Clients have saved millions on legal delivery costs; the law firms enhance revenue and client service; and UnitedLex, likewise, derives a return from its services. This is a variation of the DLA-LOD picture through a wider lens of services. The picture is the same: law firms collaborating with service providers to drive value to clients. That is a powerful response to the stress cracks to the traditional law firm model.

CONCLUSION

Is law firm collaboration with service providers a big deal or trend? Many pundits-and lawyers- would say no. As Freud said, “Sometimes a cigar is just a cigar.”

But my nose tells me this is a very different type of smoke.



Lawyers, Cabbies, and Uber

Lawyers and cabbies have several things in common: (1) if their meter is not down, they are not generating revenue; (2) most cabbies don't own their medallions, and the vast majority of attorneys are not equity partners in their law firms; (3) both groups operate in economic models that are strikingly similar: owners benefit when their ranks of cabbies — or lawyers — are working “with their meters down” and (4) statistics show that lawyers and cab drivers have disproportionately high rates of drug abuse, alcoholism, depression, and a host of other maladies. And as if that's not enough, there's something more to heap on: Uber.

Uber? It has become an existential threat to cabbies to be sure, but is it a shared threat to lawyers?

THE COLLABORATIVE ECONOMY

It is not the threat of Uber *per se*, of course, that looms over lawyers but, rather, the “collaborative economy” that Uber personifies. The term describes a new economic model built on distributed networks of connected individuals and communities rather than centralized institutions. In the shared economy model, individuals are connected to communities by technology that enables them to deploy underutilized assets the community can tap into in real time and cost effectively.

Translation: technologically, it is the glue that connects providers to consumers, cutting out the traditional delivery infrastructure and providing *faster, cheaper, and more efficient* alternatives to the incumbent economic model. Call it disruption. Cabbies have it in their windshield. But is this apposite to lawyers?



For lawyers, the disruption is, perhaps oxymoronically, more gradual. The traditional law firm model, though under assault, is still dominant. But that is changing as evidenced by the array of technology companies, diversified legal service providers, “new model” law firms, consultancies, and the BigFour who have entered the global legal market. A piece of evidence making the case for “gradual disruption” is the frenzy of merger activity engaged in by the traditional model firms. No dominant disruptor has yet emerged, but the cumulative success of new competitors — coupled with the thinned ranks of incumbent firms — suggests that there is growing market appetite for alternatives to the traditional law firm model. And as the traditional law firm model becomes increasingly disaggregated — a process already well underway — the opportunity for a market integrator to come in and claim an Uber-like market share is enhanced.

But what about regulatory hurdles? Uber has generated so much consumer demand for its services that the regulatory and legal obstacles it confronts — shared by other industry disruptors including Airbnb (hospitality) and ZipCar (automobile) — are not dead ends but temporary detours.

Lawyers might take solace in their self-regulated environment, breathing a sigh of relief and convincing themselves that “It can’t happen here.” But entrepreneurs backing disruptive model companies — including those already in or entering the legal vertical — view regulatory and legal obstacles as costs of doing business, not show stoppers. “It is not the threat of Uber *per se*, of course, that looms over lawyers but, rather, the “collaborative economy” that Uber personifies.

Uber has been in the news a great deal lately, and it has been a bumpy ride for the company. Uber experienced much-publicized setbacks from Paris to California.



Parisian cab drivers blocked major intersections and set fires in protest to Uber's circumnavigation of taxi regulations and its claim that it should be exempt because it is in the technology rather than transport services business. This is a dispute that has implications well beyond Paris and hinges on how the EU will characterize the nature of Uber's business.

Here's something powerful that Uber has going for it: the public's demand for its services. Call it: "too popular to fail."

Meanwhile, a California Labor Commissioner ruled that Barbara Berwick, a local Uber driver, was an employee, not an independent contractor as Uber had maintained. The case will now be appealed to a state court in San Francisco (conducting a *de novo* review), and you can bet that either way that body rules the decision will be appealed. But again: Uber holds one important card: it is wildly popular with the public and has the funds to take on legal and regulatory challenges as well as a forthcoming class action which, to date, has a limited certified class.

How popular, you ask? Last year, Uber's revenues in the Bay area were \$500M compared to \$150M for the taxi industry. That's disruption. And consider two other telling developments: (1) it's not just Uber; Lyft, Uber's biggest competitor, just completed a half-billion dollar raise at a \$2.5B valuation; and (2) this media outlet filed an exclusive report in February, 2015 that Google, an early funder of Uber — to the tune of approximately \$250M — is now launching its own competitor.

Translation: big money is backing the collaborative society model. One gets the feeling there's no turning back.

Here's something powerful that Uber has going for it: the public's demand for its services.



BACK TO LEGAL SERVICES AND INCHOATE DISRUPTION

Many lawyers reading this — if they have not already clicked out — might be thinking, “We have regulations that will prevent the Ubers of the world from taking over. In fact, that’s why we are self-regulated — because we know what can happen when others interfere with what we know best. Besides, law is unique.”

Really? The UK, Australia, and other developed nations have already “reregulated” the legal industry’s guardrails in their countries, providing a kick-start for new entrants as well as enabling incumbent firms flexibility to share ownership and revenues with non-lawyers. Some incumbents are “hedging their bets” by backing new model entrants while maintaining their traditional model law firms. Consider DLA, by headcount and revenues one of the global Goliaths of the traditional law firm model, which invested in Riverview, a UK-based, fixed-price, technology driven law firm that embodies the new firm model.

Then there are alternative service providers like Axiom and UnitedLex, each the size of major law firms in headcount and revenues — as well as global reach — that provide sophisticated legal services but are not *engaged in the practice of law*.

Or take Legal Zoom, a technology turned legal document company with nine-figure revenues, a well-known brand, and a newly minted British “Alternative Business Structure” license which enables it, among other things, to partner with law firms to create a very different model law firm that might look very much like Uber-applied-to law. How? Legal Zoom’s robust IT platform will connect legal consumers — mostly “retail” — to a wide network of attorneys who can offer needed expertise *faster, cheaper, and more efficiently — and at a fixed price*.

There’s also the BigFour and other formidable new entrants into the



legal vertical who have the brand, scale, technology, breadth, depth of expertise, and, most of all, the *capital* to disrupt the traditional law firm model — in the corporate segment of the market. There are many entrants in the legal disruption sweepstakes and even if it is incremental, a tipping point is being reached.

AND NOW FOR SOMETHING COMPLETELY DIFFERENT

Uber did not seek to create a variation on the traditional cab company by, say, painting its cars crushed orange, or discounting cab rates by a certain percentage. Instead, they utilized technology — upon which they made a huge initial investment — to alter the way people utilize car-for-hire transport. In the process, they did away with the existing taxi fleet model, replacing it with resources they neither owned nor maintained.

Uber utilized technology — upon which they made a huge initial investment — to alter the way people utilize car-for-hire transport.

How could this be done in the delivery of legal services? Let's start with the premise that disaggregation of legal tasks is already well underway, meaning that the role and function of the traditional law firm has already changed.

Law firms are routinely paired with various service providers in the legal supply chain; the limitation is that the technology — at least from the law firms — cannot presently integrate the supply chain.

But technology *does* exist — and has for some time — that not only effects integration of the legal supply chain but also jettisons cost-escalators endemic to the traditional law firm model.



CONCLUSION

The ingredients for full-blown legal disruption are largely in place: (1) technology; (2) relatively low regulatory and legal hurdles; (3) a wealth of providers with under-utilized assets and, in the retail market segment, a glut of clients in need of representation —“the access to justice crisis”; and (4) consumers driven to identify more cost-effective, efficient alternatives to traditional legal service providers.

What’s missing and when will the tipping point occur?

Think of Alberto Duran’s famous “No mas!” That will come when the C-Suite demands — as it is showing increasing signs of doing — that legal services are delivered with the same price predictability, sensitivity, efficiency, and metrics as other goods and services in the business world.

At that point — and it will happen soon — disruption will occur in the legal vertical, and it will come quickly and decisively.

Lawyers need not fret about their impending extinction but, like cab drivers, many of them will soon be working for companies with a new economic model.



Who Do I Sell To? Selling Legal Service is a New Ball Game

The sales process in law used to be so simple: partner at law firm has a relationship with the General Counsel or a subordinate in-house attorney. Company has a legal matter and ships the matter over to the firm who handles it start-to-finish. An invoice is presented. It reads: “For legal services rendered,” followed by a large and arbitrarily conceived number. Repeat cycle.

But that was then and this is now.

Law firm rainmakers can no longer rely solely on “relationships” to secure work. Competition is fierce among law firms, both domestic and foreign-based. Institutionally backed legal service companies offering products and services now vie for pieces of matters — sometimes portfolios — once handled exclusively by law firms. Example: Axiom recently signed an eight-figure deal with a major financial institution involving regulatory work.

Then there are contemporary “beauty pageants,” called Request for Proposal (RFP) that require legal service providers to jump through hoops *just to be considered* for work, either existing or prospective. And let’s not forget company IT Departments who routinely vet providers for their level of security, compatibility, etc.

But that’s not all that has changed.

THE BUSINESS OF LAW ENCOUNTERS BUSINESS STANDARDS

In-house legal departments have grown in size and stature and are han-



ding a greater volume and complexity of work, much of which was once outsourced to law firms. Many in-house departments now take a business approach to legal delivery that includes utilizing business, IT, and procurement professionals to vet outside legal service providers

An org chart of large in-house departments often has a dizzying array of titles, many with “General” “Chief,” and “Senior.” Some in-house departments have their own Chief Financial Officers — not to be confused with the C-suite variety — who manage the financial side of legal operations, both inside out. An increasing number of companies engage Procurement to vet legal providers and to serve as gatekeepers. Final selection of law firms generally remains with the GC or senior designees, but Procurement is frequently the decision maker when it comes to legal service companies (e-Discovery, staffing, IT products, etc.).

Knowing which portal to enter has become key to being in the hunt for securing legal business. And it’s not always easy to know which door to knock on because companies rarely provide sellers with lineup cards. Sound like a contemporary legal version of “Let’s Make A Deal?” It does to me, too.

HOW AND WHY DID THINGS GET SO COMPLICATED?

It is difficult to assign a precise date to when selling legal services became so complicated. Disaggregation—“unbundling”—began about 15 years ago when Tom Friedman taught us “The World is Flat.” Legal process outsourcing, a fancy term for offshore rather than domestic labor arbitrage, took hold as did the rise of legal staffing companies. Not long after, “alternative law firms” that eschewed the traditional partner model and service providers offering legal services but not “engaged in the practice of law emerged.

And, though it was in its infancy, technology emerged as an integral



part of the legal delivery process as paper discovery exploded into e-Discovery. This gave rise to “legal tech” companies that provided everything from software solutions to integrated platforms from which to provide legal services on a remote (“virtual”) basis.

Meanwhile, in-house legal departments bulked up to provide a less expensive, more client knowledgeable alternative to the skyrocketing cost of law firms. And in the process, many developed performance metrics, adopted a business approach to legal delivery, and began to pose a serious challenge to outside law firms and, to a lesser extent, service providers.

All this was prelude to the global financial crisis of 2008 and its aftermath when legal service providers were no longer “sacred cows” exempt from delivering value — quality and efficiency at low risk and reasonable cost. To promote this result, in-house departments increasingly turned to “business types” to assume a more prominent role in procuring legal services as well as to run the business side of internal resources.

Law had long been a business for providers. Now, consumers were taking a business approach to the procurement of legal services. Turnabout is fair play.

ENTER: PROCUREMENT

Procurement Departments have played a key role in corporations for decades, overseeing acquisition of goods and services from paper clips to professional services. Their recent emergence in purchasing legal services came as an unwelcome surprise to many lawyers who questioned their ability to understand the “special” services that lawyers provide.

Procurement’s seat at the legal vertical table began at the lower end of the supply chain but has since migrated to “the fat middle” and, in



the case of Glaxo-Smith Kline and a few other *avant garde* in-house departments, all the way up to “bet the company” matters. But for most corporate legal departments, there remain limits on the scope of Procurement’s dominion over the purchase of legal services.

Silvia Hodges Silverstein, a guru of legal procurement as well as a friend, describes procurement’s role in purchasing legal services this way: “They are ‘buyers’ in the classic sense: they are responsible for the engagement letter/retainer or framework agreement and negotiations. Procurement professionals are influencers; they try to affect the outcome of decisions with their opinion....(they) also act as gatekeepers....and direct the flow of information between the service provider and client.”

Procurement’s growing influence in buying legal services is emblematic of more sweeping changes in the legal vertical. Some key elements include: legal services are now held to similar business standards as clients; the relationship element persists in buying decisions, but metrics are replacing subjectivity; and it’s a buyers’ market, one where business professionals — not lawyers alone — are involved in acquiring legal services.

CONCLUSION

The legal vertical is becoming increasingly competitive and clients are flexing their buying power. IT and business are now enmeshed in legal delivery to the point that they have become part of the buying process. Translation: legal service providers must conform to objective scrutiny, demands, and heightened, value-driven expectations.

Those selling legal services must become conversant in legal, business and IT-speak. Selling legal services is a new ball game, one where lawyers no longer control both the supply and buy sides.



Memo to File: Keep it Simple

“SIMPLE” VERSUS “SIMPLISTIC”

Why can't lawyers make things simpler? After all, if they were to apply a “relevancy” test (think: The Rules of Evidence) to each of the matters and tasks they perform, wouldn't the product be delivered faster, cheaper and unambiguously with no compromise of quality? Who is served by abandoning plain language and shrouding the intent of contracts, for example, in pages of arcane, redundant, and unimportant “legal speak”? Certainly not clients.

IBM's legal department struck a blow for simplicity recently when they distilled dozens of pages of abstruse contracts for cloud services into a simple, two-page document. Why did they do this? Because the “standard” 30-page agreement extended the sales cycle, frustrated customers, and, in some instances, cost the company business. This is an example of an attorney performing valuable service to the client by taking proactive measures to simplify things. It begs the question: “Why don't lawyers do this more often?” Two areas ripe for such proactive measures are litigation avoidance and streamlining *all* standard agreements. And what's wrong with making things—as IBM's lawyers did—simpler?

So why is simplicity the exception, rather than the rule, for lawyers? Could it be a throwback to the days when lawyers were like delis and charged by the pound (both as to weight and currency)? Is it the oxymoronic combination of simplicity (substitute: “efficiency”) the billable hour? Or might it be that many lawyers mistakenly believe that the injection of unwarranted complexity somehow enhances the importance of what they do? Why use plain language and distill the complex into the readily understandable when to do so might debunk the myth that legal



work is beyond the grasp of non-lawyers? Undue complexity might just be the legal sauce applied to a dish that is often not so special.

The fact is that simplicity—as IBM’s lawyers demonstrated—is an asset, not a liability, for lawyers. The ability to distill and to communicate complex fact patterns, regulatory schemes, and case law in oral and written forms is an essential legal skill. Good lawyers are storytellers and can communicate nuanced messages with clarity, precision and simplicity. And this extends beyond trial lawyers to other practice areas. Lawyers should be able to communicate the “elevator pitch” of even the most complex matters in simple terms. Not to be able to do so suggests a lack of command—if not understanding—of that matter.

It is more than mere semantics to distinguish a “simplistic approach” from a “simplified solution.” The former implies that material pieces of the issue have been unaddressed. The latter suggests that irrelevant pieces of that issue have been discarded and only material elements have been analyzed in yielding a solution. As Einstein said, “Everything should be made as simple as possible but not simpler.” Why is this crucial distinction not routinely practiced by most lawyers?

“THE HONDA THEORY OF JURISPRUDENCE”

Remember in the late ‘70’s when Honda’s slogan was “We make it simple”? The genius of the campaign--much like the value proposition for the car-- was that Honda had drilled down on what their target market wanted. It was a reliable, low-priced car with an engine that could run on any grade of gas and one key that would work all the locks as well as start the ignition. Simple. Efficient. Understandable. I never bought a Honda but, as a young trial lawyer, adapted their philosophy to my practice and described it as “The Honda Theory of Jurisprudence.” What I learned is that it is remarkably difficult to distill complex cases into simple stories. How did I know when I was ready for trial? Two



ways. The first involved going up to a stranger and saying that I would pay them \$20 if they would take 5 minutes to listen to a story and relate its message back to me. I would present the case for the first 3 minutes; the next 2 minutes were spent listening to the stranger provide a take on what I had told them. If they understood the story, I was ready for trial. Almost. That brings up the second part of the final preparation. I would open each trial with the same line, substituting one word at its end. I would say: “This is a case about (one word; fill in the blank). I recited this sentence to begin opening and closing statements. In those instances when I was permitted to poll the jury, they almost unanimously said they had focused on that one word (greed, opportunity, competition, etc.) to frame the case. It’s not that the cases were simple—most of them were highly complex—but I knew that if I drilled them down to the essence for the trier of fact and framed things in my self-selected simple term, I had a big advantage. To analogize to the IBM contract modification, it was easier to “get to yes” by simplifying things and sticking to what was relevant and material.

KEEPING THINGS SIMPLE

Is it *hubris* that prevents most lawyers from simplifying their work? Or is it perpetuation of the myth that what they do is bespoke? Perhaps, as noted previously, economic incentives are the antagonist of simplicity. That would change were fixed-price billing and transparent statements of work (who, what, when, and how much for handling the case?) the new standard for legal engagement. Lawyers would be well served to simplify things for themselves and for their clients. One way to achieve that is to ask the client at the inception of each engagement: “What is your objective?” Not only is this a key driver of case strategy, but also—and more fundamentally—it eliminates misconceptions and aligns expectations. Imagine hiring a contractor to build an addition to your home and have work commenced without any prior discussion of style, finishes, square footage, use, workers, and price? That remains



the norm for how lawyers/firms operate. And it leads to “frolics and detours”, fee disputes, erosion of confidence, and a host of other unfortunate consequences. A simple solution for this recurrent disconnect is for lawyer/firm and client to achieve alignment of objectives and expectations prior to work commencing on a matter.

CONCLUSION

Lincoln’s Gettysburg Address—272 words—is a shining example of eloquent simplicity. Each word has relevance, meaning, and power—nothing superfluous. His ability to compress a complex story about war, politics, human aspirations, healing, and so much more—and to communicate it in plain language and few words-- is a reminder of what good lawyers can do.



What Law Firms Can Learn From Amazon and Wayne Gretzky

Amazon's shares have doubled during the past year in a flat market. Good news for Amazon shareholders, but what-you might be wondering-does this have to do with the legal vertical?

Lots. Law firms-and legal service providers -can learn from Amazon's remarkable success.

A recent article by Farhad Manjoo, "How Amazon's Long Game Yielded a Retail Juggernaut" (*The New York Times*, "State of the Art" Nov. 18, 2015) provides two reasons why Amazon's shares have soared and the company's market cap now far surpasses Walmart. Mr. Manjoo's "simple explanation" is the explosive growth of Amazon Web Services, the company's cloud-computing business that rents server space. He also provides a more nuanced explanation for Amazon's remarkable success: the long view it (and investors) has taken in its core online business.

Several stock analysts maintain that Amazon's retail operations have reached an "inflection point," where the company's long-term investments in infrastructure and logistics are paying off. Investment in the company's huge warehouses and logistics speeds up shipping. And this, in turn, encourages more shoppers while also making infrastructure investment an ever-smaller proportion of the company's operations. Translation: Amazon has invested megabucks to streamline its operations and, thereby, to enhance customer experience.

Call this-as Mr. Manjoo does-"patience" or "the long view."

That brings us back to legal delivery and, more specifically, law firms.



How many of them take the long view? How many invest in infrastructure that streamlines delivery to improve customer experience? And why do law firms take a short-term view in a vertical where customers (clients) clamor for change?

THE LAW FIRM PARTNERSHIP STRUCTURE AND PPP

The traditional law firm partnership model rewards an ever-shrinking cadre of equity partners. Firm “success” is generally measured by PPP, the holy grail of legal metrics. A high PPP enables firms to retain rain-makers and entice new ones to join its ranks. It is the also a key element in firm acquisitions.

PPP is what once kept the next generation of firm talent working hard and staying in the fold, because they too wanted to grasp the golden ring. Those who lost the partnership sweepstakes were usually assured a tenured home at the firm or partnership at a smaller one with lower PPP. Translation: a book of business has always mattered, but not to the extent that it does today.

Optimization of PPP now comes at a steep cost. That includes foregoing a long-term approach. Disaggregation, heightened competition, and a buyer’s market, are among a spate of factors creating stress cracks on the traditional law firm structure. To preserve PPP, firms must adopt a “future is now” strategy. And to do that often requires “pruning the herd” of upcoming talent and service partners.

There is a generational divide within most law firms. Older partners generally favor stasis to preserve PPP. Younger partners and those in line for promotion lack a say in the firm’s direction, investment, and hiring/firing decisions. Equity partnership is now a statistical long shot. Thoughtful young lawyers might ask: “What is it that I would be taking over, anyway?”



The partnership model rewards partners, not shareholders. And so, those who have climbed the mountain to partnership are not apt to change a structure that rewards them well—even if preserving the status quo compromises the firm’s long-term sustainability. As Richard Susskind quipped: “It’s hard to convince a room full of millionaires that they’ve got their business model wrong. “

The traditional structure is fine for equity partners intent on “running the table ‘til retirement.” But it’s no longer so good for the rest of the firm. Add to that the generally unfunded firm retirement plans, and soon-to-retire partners have little financial incentive to tinker with firm structure.

PPP once created economic tension between firm and client. That persists, but now there is also an internal friction pitting the “old guard” against up-and-comers. So where is the future in firms? And how does a “run-the-table” approach affect the sustainability of firms as well as their clients? Answer: the traditional partnership model may well be in its last generation.

SERVICE PROVIDERS AND INFRASTRUCTURE INVESTMENT

Service providers do not have the same prohibitions that (U.S.) law firms do regarding “non-lawyer” capital, partnership, revenue share, inter-disciplinary practice and even IPO’s. This has many ramifications, not the least of which is the substantial research and development budgets that several legal service providers have. They—not law firms—are investing in technology, analytics, and processes that are transforming the delivery of legal services.

If legal service is now a three-legged stool (legal expertise, IT, and business process), then service providers are beginning to distance themselves from their law firm competitors who remain “legal-centric.” Providers reserve seats at the management table—and equal standing-to



technologists, process, and other domain experts who contribute to improved delivery of legal services Plus, service providers generally seem to be more client-centric than law firms.

Is it any wonder, then, that service providers-not law firms-are driving innovation in legal delivery? And is it a surprise that service providers are steadily migrating up the complexity chain of “legal” tasks, performing them more efficiently and cost-effectively than law firms?

Clearly, top service providers are addressing client needs that law firms cannot. The traditional law firm structure makes it nearly impossible for firms to compete with providers in the cost-effective delivery of all but the most bespoke legal tasks (e.g. high-value expertise and judgment). And clients are beginning to see this.

Law firms are no longer the sole source suppliers of legal services. The future of firms is to focus on bespoke work and leave the rest to providers. An exception: law firms that adopt alternatives to the traditional partnership model and integrate provider services. And whether legal services are delivered by firms or providers, client needs, not profit, must be the focus.

Whether law firms or others will manage integration of the legal supply chain is another question. But if law firms are to assume this vital role, they had better hire- and reward- those who know how. This is not a skill that most partners have.

SERVICE PROVIDERS HAVE DIFFERENT STRUCTURES-AND DNA-THAN LAW FIRMS

Service providers do not have the legacy mindset of law firms- billable hours and their inverted reward system, segregation of lawyers from IT and process management, and a partnership structure. They were created to deliver tasks once performed by law firms on a more



client-centric, efficient, transparent, and cost-effective basis. Translation: service providers came about because there was a market demand for alternatives to law firms delivery of all “legal” services.

Now that the urban myth that “only law firms can deliver ‘legal’ work” has been debunked, where will the migration up the legal supply chain end for service providers? It’s difficult to predict, but service providers perform more complex work every year-as well as a greater slice of the outsourced pie.

A FUTURE OF HYBRIDS?

If law firms as we know them are unsustainable- except for a handful of “bespoke”, brand-differentiated ones- what will come of them? Some possibilities include: spin-off boutiques that practice in specialized practice areas, a proliferation of legal networks (both for firms as well as individual lawyers), legal departments within accounting firms and consultancies (an expansion of what already exists), and strategic partnerships between law firms and service providers.

The days of law firm hegemony are over. Some of the more prescient ones are taking steps to reposition themselves in the marketplace, either as boutiques, as integrators of the supply chain, as stripped down firms with various subsidiaries (performing tasks once done by the “mother ship”), or as spin-offs with new business models. Then too, many continue to get bigger through mergers and acquisitions. But that is simply kicking the structural can down the road.

CONCLUSION

The precise contours of the legal delivery’s future remain fuzzy. It is clear that law firms as we know them will assume new and different forms. And the shape of those firms will be molded by client needs, not PPP.



Wayne Gretzky said, “I skate to where the puck is going to be, not where it has been.” Most law firms are skating to where the puck has been. There’s an open net for those who move to where it will be.



Legal Practice and Legal Delivery: An Important Distinction

Lawyers parse words and define terms. So why do they so often use “legal practice” and “legal delivery” interchangeably when the terms have such different meanings and implications? This *distinction* is especially important in the context of the tectonic shift occurring in the legal vertical. The *practice* of law is very different than the *delivery* of law. This is more than a semantic distinction.

THE PRACTICE OF LAW HAS NOT CHANGED ALL THAT MUCH

The practice of law has not changed much since I became a lawyer a few decades ago (Jimmy Carter was President and the Pittsburgh Pirates won the World Series). Trial, corporate, and the other practice areas are pretty much as they were then as are the Rules of Evidence, Professional Responsibility, and other core precepts that govern lawyers and guide their practice. Yes, international practice has become more prevalent and practice areas like IP have taken on heightened prominence, but choice of law, forum non *conveniens*, and all those other things lawyers struggled to master for the Bar exam have changed little over the years.

Some will say, “but what about technology?” Certainly, technology is now a part of legal life—just as it is in virtually every other facet of our existence. Technology is no longer a vertical; it has become a horizontal. And this certainly applies to its impact upon law. But it is not so much the *practice* of law that it affects—what lawyers do and how they do it. Rather, technology has profoundly changed the *delivery* of legal services—how and by what structure those services are best rendered and by whom. Technology has been a key factor in creating a legal sup-



ply chain in a vertical where, until relatively recently, law firms were the sole outsourced legal service providers.

Electronic discovery has exponentially increased the volume of data- and ironic that technology generally drives costs down and promotes efficiency *except* with law firms. At the same time, privilege, relevance, and other legal precepts governing the production and evidentiary value of that data have scarcely changed. What *is* different is client unwillingness to pay BigLaw rates for high volume, low value work such as document review.

LEGAL WORK DELIVERED OUTSIDE LAW FIRMS

Lawyers still sift through data and maintain privilege logs, but now they frequently do so while working for lower cost service providers, not law firms. And the top service providers have invested in technology- not to mention project managers- to promote efficiency and to deliver *legal services* at rates commensurate with the value that clients ascribe to the task. The traditional law firm structure, designed for profit-per-partner but not conducive to competitive pricing for such repetitive work, has fueled the growth of “alternative providers”. Many of those service providers perform legal functions but operate from a corporate rather than a partnership model. Plus, service providers can- and do- often engage in inter-disciplinary practice with technologists, engineers, accountants, and project managers working side-by-side with lawyers. My take: this is the present mimicking the future.

Top service providers, consultancies, and legal technology companies—all of whom employ lawyers (as well as other service professionals)- have access to institutional funding to acquire technological advantage, top management as well as domain experts. All this fuels growth and brand development.



Summation: legal practice is now being delivered from many new forms and structures. And a common denominator among them is a more client-centric, collaborative, and transparent approach to service delivery. The inescapable conclusion is that the traditional law firm model can no longer sustain profit-per-partner (its goal and lifeline) while, at the same time, build for the future and deliver non-bespoke services at cost-competitive rates.

LEGAL EDUCATION AND THE IMPACT OF LEGAL DELIVERY CHANGES

This spills into legal education. The good news is that law schools continue to provide students with “the basics” of legal training. Their core *curricula* have not changed much during the past half-century or so except for a wider array of elective courses—as well as more administrators and extravagant new buildings.

The bad news is that most law schools, like practicing lawyers, do not seem to appreciate the difference between the practice of law and the delivery of legal services. And that distinction is crucially important to legal education because it affects curriculum and the preparedness (*vel non*) of graduates to enter a new and different legal marketplace. Law schools continue to prepare students for the traditional law firm model—one with high salaries to help defray education costs and partnership opportunities that have all but vanished-- that is rapidly being replaced.

LEGAL DELIVERY TODAY DEMANDS NEW SKILLS FOR LAWYERS

Law schools are operating as if the delivery of legal services is as it was even a decade ago. By so doing, they fail to teach new skills required for contemporary lawyers. Many of those lawyers will not be working in law firms operating under the traditional partnership model. Why does that matter? Because legal delivery is now a race that rewards expertise, efficiency, low cost, risk mitigation, and value-



not billable hours and profit-per-partner. Translation: new skills are required for young lawyers to be market-ready whether they work at law firms, in-house, or for service providers. Those skills include: e-Discovery, contract management, IP, cyber-security, and project management to cite but a few.

The parallels between traditional law firms and law schools are striking. Both tend to overlook that though legal practice is very much the way it has always been, legal delivery is being transformed. And that includes the integration of “legal” problems into business and technology issues. Legal delivery has become a three-legged stool of which legal expertise is but one element. Consider that Illinois recently became the fifteenth State to adopt Rule 1.1, “(Lawyer) Competence” to require attorneys to stay abreast of changes “including the benefits and risks associated with relevant technology.”

“Just being a lawyer” does not cut it anymore. If lawyers do not broaden their skill base, they could go from a starring to a support role in the delivery of their services. Don’t believe this? Consider that many large companies and industry groups are routinely retaining lobbying firms, crisis management boutiques, and accounting firms to handle some of their biggest business challenges. Lawyers might identify those challenges as “legal”, but clients often don’t. In the end, clients, not lawyers, determine when-and for what-lawyers are required.

Consider also the changing role of in-house lawyers who practice in a corporate, not a traditional law firm partnership model. They are morphing from working solely on “legal” matters to supporting business in an array of roles including corporate governance, cyber-security, risk management, and other technology and business driven activities. Simply “being a lawyer” does not fit their new job description and responsibilities.



CONCLUSION

The delivery of legal services is a play with many actors. Disaggregation of legal tasks is well underway with no signs of slowing down or turning back. The days of law firms having a stranglehold over legal delivery have given way to the rise of in-house lawyers and departments, legal service companies, and technology companies “productizing” tasks that were once delivered as services. Again, it is not legal practice that is changing but the structure from which those services are being delivered.

Don’t think this can or should happen? Look at the transformation of medical service delivery during the past few decades. And consider, too, the rise of para-professionals in the healthcare industry. Note to lawyers: law is important and lawyers play an important societal role, but neither is “special.”

Law schools must be more sensitive to the changes in legal delivery and skills students must have to avail themselves of marketplace opportunities. And non-rainmaker lawyers in large firms might take a hard look at the long-term sustainability of the traditional partnership model. What level of investment and commitment are their firms making to the next generation? In most firms, the answer is “not much.”

Legal practice is not under attack. But the traditional law firm structure is. And the sooner lawyers recognize the difference between practice and delivery of legal services, the better they can prepare themselves to be key players in new delivery structures. The winning lawyers and structures will be those that focus on clients, not maximization of partner profit.



Lawyers, Law Firms, and a Sophisticated Buyer

“What’s your biggest professional challenge?” I asked. There was a momentary silence. Then my friend, who runs the global legal portfolio of a Fortune 50 company, responded, “I wish I could hire certain lawyers without having to retain their firms.”

That answer says a great deal. True, one buyer a market does not make. But my friend isn’t just *any* buyer of legal services. He is a savvy, thoughtful legal consumer, a former law firm litigator turned in-house attorney who oversees his company’s legal matters across about 150 countries and multiple business units. He also has one of the largest legal budgets on the planet.

“I don’t mind paying the senior lawyer his or her rate,” he continued, “but I don’t like the cost that comes with it.” The cost, of course, refers to the supporting lawyers and their sky-high rates necessary to prop up profit-per-partner and the traditional law firm partnership structure. This begs the question: if lawyers-not law firms-are the key, what is the future of law firms as we know them?

IT’S THE LAWYER, NOT THE LAW FIRM

“So you hire certain lawyers for their judgment and expertise,” I said, “and you would prefer to have the support work going elsewhere? I guess that means that in your estimation the supporting law firm cast and infrastructure do not drive the same value as your go-to lawyer?”

“Right, I don’t hire law firms except in rare instances where I need one of a handful of them who have distinct brands. And we both know there



are only a handful of those globally. I hire individual lawyers-the firm is incidental and, frankly, something I factor into the cost of hiring the lawyer I want.”

We proceeded to billing rates. There, it’s all about the matter complexity and/or novelty and the number of lawyers who can do the job capably. “In bet –the- company cases,” my friend pointed out, “a handful of lawyers might be equipped to do the job well, and, so, they command high fees. And I don’t quibble over those fees. Then there are my lawyers who handle less complicated, more routine matters-the legal equivalent of doctors conducting routine physicals. Their judgment is important too, but there are more of them who can do the job and, so, I pay them commensurately lower fees. Each category of lawyer is important; their value is determined by their scarcity.”

“So it’s a numbers game with lawyers who can do the job,” I said. “You choose from a group of lawyers whose expertise and judgment you trust, and you pay them by the value that type of work has for you.” He agreed.

“So let’s return to the firm and the value it drives,” I said.

“Not much in most instances,” he said, “if I had my way I would hire a particular lawyer and then tap into a network of support lawyers who would work under her/his direction-and at substantially lower rates that are more in line with the value I perceive they deliver to the tasks they are performing. I don’t ascribe much value to most firms, especially those whose only common denominators are name and high billing rates.”

The days of “for services rendered” are over. Likewise, disaggregation of many legal tasks-and the “productizing” of others have challenged the traditional assumption that law firms and their expensive structures are necessary to handle legal work. Witness the steady growth of in-



house legal departments, the success of legal service providers, and the proliferation of legal technology companies.

MOST LAW FIRM BRANDS ARE UNDIFFERENTIATED AND OVERRATED

So what does that say about law firm brands? “It’s not very important to me,” my friend said, “because as far as I’m concerned, I need expertise an understanding of my business- that comes from individual lawyers, not from a brand.” He went on to say that even with his global portfolio, the geographical presence of a firm is only as good as the individual attorneys in the locations where he needs them “unless it’s a tie-breaker where there is a good lawyer in the firm I’m using and another one outside of that firm. Otherwise, I will go with lawyers I have confidence in even if it involves retaining different firms.”

The takeaway is that law firm brands are not as important as many think. In fact, when I suggested that some Swiss vereins lack the uniformity of quality and delivery consistency of franchises, he readily agreed. “I don’t see much value in those firms that become global by acquisition. I could sooner see using a top-notch legal network of superb lawyers operating on a common technology platform-that would be ideal.”

So perhaps bigger is not necessarily better, especially from the client perspective. It’s not the size or brand of the firm that seems to matter most, but the level of lawyer expertise and a record of sound judgment. Perhaps law firms—like medical centers—should focus on specific areas of excellence across geographies rather than attempt to be all practice areas in all locales to secure clients. And while we’re at it, firm focus on profit-per-partner should take a backseat to client satisfaction. Brands are built on client satisfaction over time, not short term profit maximization.



WHAT'S THE MESSAGE?

There are too many high-priced lawyers vying for a dwindling supply of outsourced corporate legal work. And they are too expensive- save for those lawyers who are performing the critical judgment work-while operating within the traditional law firm structure. Already, law firms are experiencing changes in their hierarchical models brought on by client resistance to the rates charged by “support” lawyers (those not exercising judgment and performing more routine tasks). Those lawyers are valuable, but their value increasingly is challenged by clients when delivered from large law firms. This presents great opportunities for creative lawyers to harness collaborative technology to deliver services on a more client-centric, transparent and value-driven basis. Some are already starting to do so, chipping away at BigLaw’s hegemony over outsourced corporate legal business. And, until those new providers achieve greater market penetration, in-house legal departments will continue to grow.

Think this is all theoretical fluff? I was privy to a recent bid process involving an AmLaw 100 firm and a fledgling legal service provider vying for a portfolio of contract work. The law firm made an “aggressive” \$600,000 fixed-price bid; the service provider bid \$70,000-at what I later learned was a thirty-five percent margin. The service provider got the work, and the client was pleased by the job, noting its effective use of legal and technological resources and its capture of data for future use.

Message to law firms: it’s not about the firm structure or brand much longer, especially for matters-or portfolios-that do not require a high degree of specialized expertise or significant judgment. And for those that do, sophisticated clients are beginning to insist upon a supply chain rather than a law firm doing all the work internally.

Again, this presents opportunities for lawyers-and entrepreneurs-to



harness “support” legal talent and to deploy them in more cost-effective structures. Then too, more corporate lawyers might consider taking their talents to the underserved retail market where there are millions of potential paying clients who simply cannot afford law firm rates, whether those firms are large or small. Freed of the traditional law firm structure, lawyers can do more for less-without compromising client and increasing client satisfaction.

CONCLUSION

Lawyers can and should collaborate. But they need not necessarily do so in the traditional law firm structure that is sustained by various forms of leverage. Technology now exists that enables lawyers to collaborate seamlessly and effortlessly without the need to work in large-or even smaller firms. And that is not to mention legal service providers who often perform the same tasks as law firms but in corporate structures that are more client centric and drive down cost significantly.



What's a Quality Law Firm?

Lawyers are not going out of business. And certainly the handful of brand differentiated firms are not, either. But the business of law is casting a harsh light on the utility and necessity of the traditional law firm structure. After all, clients hire lawyers, not law firms.

Justice Potter Stewart's celebrated "I know it when I see it" obscenity test also applies to law firm quality. No one can quite say what it is, but most attorneys and clients claim to know it when they see it. This is a very subjective standard in a metric driven world.

LAW FIRM QUALITY MEASURES: HEARSAY AND BRAND

How can you tell a "quality" law firm? Simple answer: hearsay. And brand.

It's remarkable that a huge global industry like legal service is so devoid of quality metrics. And it's ironic that lawyers and clients substitute assumption for evidence when it comes to judging law firm quality.

Other businesses and professions, of course, have long utilized quality metrics. Take baseball. It has had performance metrics from its opening pitch. In the past few decades, a second generation of baseball metrics has come into play, measuring the impact of performance on outcome. The baseline performance metrics remain, but the focus is now on how that influences outcome. Call this the Palsgraf metric: but for a player's contribution, would a different result have obtained?

Why do law firm metrics fail to reach first base? And how is law firm quality evaluated apart from brand and hearsay?



It depends because, to be technical, it's squishy. Reputation, subjective lists (reminiscent of that famous line from Casablanca: "round up the usual suspects"), law schools attended, and financial success are common determinants. To the extent metrics are relied upon, they calibrate firm financial performance, not quality. The self-regulated legal industry measures success from the attorney- not client- perspective. Hmm.

Ken Grady, a former Fortune 500 company General Counsel and thoughtful commentator, has noted the legal industry tends "to do quality by proxy." He cites law school and firm brands as proxies for quality, arguing that instead of metrics, lawyers make assumptions that are generally tied to brand. He's right. And there's rich irony in lawyers substituting assumptions for evidence.

PPP IS A FINANCIAL METRIC, NOT A MEASURE OF QUALITY

Profit-per-partner (PPP) has long been the holy grail of legal metrics. Its importance extends well beyond the equity partner compensation it measures. PPP enables law firms to retain equity partners (now synonymous with rainmakers), lure laterals, and burnish the firm brand. Clients also seem to view high PPP as a positive, although there is scant data linking PPP to client satisfaction or firm quality.

PPP measures a firm's profit maximization. It is *not* a gauge of expertise, results, knowledge of clients' business, efficiency, transparency, or value to clients. True, clients "vote with their feet," but the decision to switch firms is often based upon cost factors rather than quality- or a combination of the two. While technology and expertise exist to fashion firm "quality scorecards," most legal software tracks legal spend, not results or client satisfaction.

Size also matters in the quality discussion. It is tied to billing rates; large firms typically charge higher rates than smaller ones. And there



is a general perception that larger firms charge more because they (presumptively) have “better” lawyers and deliver superior results. This is not necessarily so, of course, but it helps explain why, until recently, the AmLaw 200 had a virtual monopoly over the Fortune 500’s outsourced legal work.

Law firm quality is also tied to parochialism and brand. A disproportionately high percentage of large firm lawyers graduate elite law schools. They are presumed to be superior lawyers even when their academic excellence and pedigree do not mirror practice achievement.

Many in-house lawyers are products of big firms, so they tend to be more “comfortable” sourcing work to former colleagues or other brand name firms. And firm partners tend to regard colleagues as “top notch” because it burnishes the brand. But more importantly, there is a strong economic incentive to keep client work within a firm, even when doing so may not be in the best interest of the client.

SIZE PROMOTES BRAND, NOT NECESSARILY QUALITY

There is another aspect to size: quality control. The larger the firm- especially when its growth is from acquisition- the more difficult it is to maintain quality. Ditto for conflicts. Add to the list technology, practice, cultural, economic, and geographic challenges that become exponentially larger as a firm grows in headcount and geographic footprint. Brand and quality are not the same.

Take Dentons. There was no entity known as Dentons just four years ago. Today, it is the largest law firm- by headcount- in the world with offices around the globe. And while Dentons would no doubt point to its rigorous quality, due diligence, and conflict standards, is there any useful data to measure how it’s handling these critical challenges? The same questions could be asked about any large firm.



Dentons throws into high relief the distinction between brand and quality. The firm has certainly succeeded in creating a global brand. But how does the Dentons brand square with its quality of service? The question is not posed to imply a particular answer but to shine a spotlight on the brand/quality distinction.

BETTER WAYS TO MEASURE AND DELIVER QUALITY LEGAL SERVICES

So what are some better ways to measure law firm quality? A good place to start is from the client perspective. Some obvious criteria are: results; areas of law firm excellence; client business comprehension (think: competency based testing); client retention; attorney retention; firm succession plan; collaboration with clients and others in the legal supply chain; billing flexibility and alignment of financial interest with clients; diversity; innovation; and pro bono/community involvement.

Many lawyers might scoff and say, “some of these things are hard to measure- and why the need to justify when clients *know* we are an elite firm?” Answer: why is it that physicians and hospitals, to cite one of many examples, are routinely evaluated by many of these criteria? People don’t pick surgeons or hospitals based upon profit margins or income. They *are* influenced by expertise, experience, results, and other objective yardsticks- as well as financial considerations. Why should law firms be judged by different standards?

CONCLUSION

Metrics are only as valuable as the materiality of what they evaluate. So what counts here?

The seminal characteristic of a quality law firm is consistently effective client representation. The firm adheres to ethical standards, achieves positive outcomes, provides good value, instills confidence,



and achieves a “trusted adviser” relationship with many clients. That’s the external component.

There is an internal element, too. The firm values all lawyers and staff, not just equity partners. It is diverse at all levels, gender blind with pay and promotion, and has a succession plan. It is building for the future. And it recognizes the importance of business process and technology- as well as legal expertise- in the delivery of legal services. It hires (or collaborates with) experts in those areas and gives them a meaningful seat at the firm’s management table.

It gives back to society and helps restore public confidence in lawyers.

And it forges relationships with law schools and legal service providers because it recognizes the importance of alignment in the legal ecosystem.

A law firm that achieves high marks in these areas would be a quality firm- even by Justice Stewart’s standard.



Law Firm Networks: A Quiet Giant

Law firm networks are seldom mentioned in what has become a popular parlor game for legal pundits: speculating who — and what structure — will disrupt the global legal market. Why is this?

Law firm networks have quietly multiplied in number, size, geographical reach, and — to a lesser extent — brand recognition. Could highly selective, well-branded, and technologically integrated networks with well-funded centralized management become the preferred legal delivery structure in the coming years by offering more client-centric, efficient ways to procure legal services than mega-firms or the Big Four?

WHAT ARE LEGAL NETWORKS AND HOW PREVALENT ARE THEY?

Legal networks began as law firm “clubs” and, by the 1980’s, evolved into organizations with admission criteria, territorial exclusivity, global reach, and brands. While member firms maintained their independence, they also co-branded themselves under the network banner. This channeled an already well-established practice of accounting firms seeking to provide an alternative to the global reach of the Big Four.

The size and global presence of legal networks has expanded significantly during the past 20 years. Today, there are now approximately 170 such networks comprised of hundreds of thousands of attorneys and several thousand member firms. And while Lex Mundi and World Services Group (WSG), the two largest, may not be household names, their geographic coverage and aggregate attorney numbers dwarf the likes of Dentons and Baker & McKenzie. Why, then, are networks not more visible and how are they different than mega-firms created by relentless acquisition?



MEGA-FIRMS AND THE BIG FOUR'S BRANDING ADVANTAGE

Branding has been a key differentiator between mega-firms, the Big Four, and global legal networks. Mega-firms and the Big Four — who have a quarter century head start on law firms — pour huge sums of money into burnishing their unified global brand. Networks, on the other hand, seldom have the centralized funding to compete and, so, have failed to develop comparable brands. The branding distinction becomes even clearer when one considers that the similarities between networks and mega-firms outweigh the differences.

Network member firms maintain a “dual identity,” retaining their firm’s individual brand while simultaneously co-branding themselves under the network banner. From a visibility perspective, this has put them at a disadvantage in marketing themselves as alternatives to the Big Four (themselves vereins), and mega-firms. As well, network admission criteria are sometimes lax, creating the perception that networks lack the quality controls of *mega-firms* which typically engage in rigorous pre-acquisition due diligence.

Elon Musk notes that a brand “is just a perception, and perception will match reality over time. Sometimes it will be ahead, other times it will be behind.” Networks *are* behind the perception curve but could catch up with the reality of what they can offer, especially if they tighten up selection criteria, create funding for branding and technology, adopt a corporate structure that rewards efficiency, and provide clients with a viable alternative to the partnership model shared by mega-firms and the Big Four.

THE MEGA-FIRM APPROACH TO GLOBALIZATION

As BigLaw has morphed from small groups of attorneys operating in a single location to global enterprises with thousands of professionals



and staff, the notion of what it means to be a law firm has changed considerably. For firms vying to service multi-national clients around the globe, this has created a geographic arms race. And in the process of their metamorphosis into global behemoths, law firms have almost uniformly grown by acquisition — some at a dizzying pace.

These legal versions of roll-ups have two basic forms of economic structure: unified profit-sharing or, in the case of Swiss vereins, member firms retain their own balance sheets. In either case, the common denominators are a unified brand name and a partnership structure dedicated to maximizing profit-per-partner.

These “firms” bear little resemblance to the integrated, homogenous practices of yore. In fact, global law firms operate very much like the Big Four accounting firms who, decades ago, created global brands, wide geographic imprint, stunning size and revenues, Swiss verein structures, and inter-disciplinary practices. Is it any wonder, then, that the Big Four are already taking an increasingly large slice of the legal pie? Though regulatory and State Bar Rules currently prohibit them from “engaging in the practice of law” in the U.S., they nonetheless offer practice coverage indistinguishable from those of major law firms with whom they frequently vie for business.

LEGAL NETWORKS AND MEGA-FIRMS: SOME SIMILARITIES AND DIFFERENCES

Mega-firms have many similarities to legal networks: geographically disparate member firms, separate balance sheets, and integration challenges, both human and technological to cite but a few. The most salient differences are that network members — unlike their firm counterparts — lack singular, unified brands, funding to compete with brand development, an economic incentive to retain as much work as possible within the firm, and a partnership structure where profit-per-partner (PPP) trumps all.



Paradoxically, as mega-firms create their global brand, they often compromise long-term sustainability to maximize PPP that, in turn helps fuel expansion. How, then, can the brand maintain its luster over time? As Warren Buffet said, “Your premium brand had better be delivering something special, or it’s not going to get the business.”

Networks do not suffer from this problem, nor do they confront the same conflict issues that arise in mega-firms, especially Swiss vereins. Just ask Dentons whose recent disqualification in a well-publicized ruling by the Chief Judge of the U.S. Court of International Trade cast a harsh light on the verein structure and the susceptibility of its members to conflicts.

Nor do networks face the same pressure to keep clients within the firm, even where the client might have better options. Translation: networks do not have the same level of conflict issues that mega-firms do and have a structure that is innately client-centric.

THE POTENTIAL ADVANTAGE OF NETWORKS

Networks have a number of potential advantages that could position them well going forward. Imagine a “super network” comprised of top-notch boutiques and/or “alternative” law firms (devoid of the traditional partnership model and value driven) offering global coverage, strong, well-funded, centralized management focused on client satisfaction, operating with internal and client accessible metrics that identify the most qualified and cost-effective resources to perform different matters and/or tasks.

All this would occur in a corporate structure that places a premium on the most efficient, value-driven solution for clients, not one that focuses on PPP. Such a network would have the size, expertise, quality controls, efficiencies, technology, and client-centric model that would, with ad-



equate funding and client endorsement, create brand strength and pose an attractive alternative to existing options.

CONCLUSION

Business and professional services companies are embracing collaboration as never before, recognizing that success is rarely a zero-sum game. Legal networks are inherently collaborative and client-centric, and this bodes well for them as competition for global business intensifies. A strong, centralized and business-savvy management structure that can assemble an association of networks with the right reward structure and technology — one that drives value, efficiency, and an integrated global delivery capability not dependent upon the traditional law firm structure — might just be the surprise winner of the pundits’ “let’s pick the disruptor” parlor game. Don’t bet against it.



Memo to Lawyers: The Customer is Always Right

A century ago Harry Selfridge, the London retailer, declared: “The customer is always right.” The temptation to interpret this too literally belies the wisdom of the remark, because with an economy of words, Selfridge captured the cornerstones of success in any service business: (1) convince the customer that s/he will receive good service; and (2) convince employees to provide a positive customer experience. This was a departure from the “caveat emptor” standard of the time.

Naturally, customers are not always right, but whether one is selling shoes or legal services, it helps to instill customer/client confidence. A critical element of customer trust is the client’s expectation the provider will be reasonable, transparent, and stand behind the service or product. Lawyers were not long ago high up on the list of “most trusted” job categories. But as law firms morphed from small, personalized groups to enormous, geographically disbursed businesses, that trust has eroded. The popular and derisive tee shirt that reads “Trust Me, I’m A Lawyer” speaks volumes.

The UK provides a remarkable example of lost trust in lawyers and the steps taken to revive it. Can it come as a surprise that this odyssey was piloted not by lawyers but by the consumers of legal services?

A QUICK LEGISLATIVE HISTORY OF THE LEGAL SERVICES ACT OF 2007

Complaints against lawyers in the UK were so widespread in the early years of the new Millennium that Sir David Clementi, former Deputy Chairman of the Bank of England, was authorized by the British Government to undertake an extensive examination of the legal profession.



Mr. Clementi is not an attorney, and that might be a cause, if not the proximate cause, of the candor of his assessment. His two-year investigation revealed several glaring problems in the self-regulated legal vertical. Sir David certainly understood business and the procurement of legal services; he was a Chairman of Prudential, plc, one of Britain's largest insurance companies, as well as non-executive Director of the Rio Tinto Group, a huge minerals and mining company. His no-holds barred evaluation of the legal profession concluded that: (1) a massive overhaul of the self-regulated legal industry was necessary; (2) interdisciplinary practice should be sanctioned—meaning that lawyers be permitted to work with non-lawyers; (3) significant changes were necessary to restore public confidence in the profession; and (4) *the interests of the consumer must be paramount in fashioning new regulations.*

The Government adopted Clementi's recommendations and took them even farther, authorizing the creation of "Alternative Business Structures" (ABS) enabling non-lawyers to invest, share profits, and manage law firms. This is the best-known portion of the Clementi Report and its legislative aftermath but it is by no means its centerpiece.

The crux of the Legal Services Act of 2007 (the Act), the product of Clementi's investigation and ensuing Parliamentary action, is an overhaul of the rules governing lawyers in England and Wales *intended to serve the public interest and to restore confidence in lawyers.* And if you think this characterization is a matter of subjective interpretation, consider the title of the Government Report that led to enactment of the Legal Services Act: "The Future of Legal Services: Putting Consumers First." Then, read the Executive Summary's introductory paragraphs:

"This White Paper sets out the Government's proposals for reform of the regulatory framework for legal services in England and Wales. The purpose of the changes is to put the consumer first. The Government has set up a Consumer Panel to advise it as it takes forward reform.



The changes will mean an end to the current regulatory maze. The aim is a new regulatory framework, which better meets the needs of consumers and which is fully accountable.”

MEANWHILE, ON THIS SIDE OF THE POND...

The Legal Services Act has been viewed with a mix of caution, dread, and visceral backlash by many lawyers on this side of the Atlantic. The Act is often characterized as an existential threat to lawyers’ independence and a capitulation to the avaricious over-reaching of business types whose goal is to annex the lucrative legal vertical. But lost in this fear-of-change mongering is the stark parallel between the current US legal industry and the pre-Clementi (2004) British version. Can one reasonably deny that here in the States—as was the case in the UK—there is a marked erosion of consumer confidence in lawyers, whether at the retail or corporate ends of the marketplace? What, then, has the response been in the US to restore consumer confidence in lawyers and to “put the consumer first”?

The ABA Commission on Ethics 20/20 was formed a few years ago to examine how globalization and technology are transforming the practice of law and how the regulation of lawyers should be updated in light of those developments. Unlike the Clementi Report authored by a senior business executive and sophisticated consumer of legal services, the ABA inquiry is conducted by lawyers who might tend to filter things through their narrow lens.

While the consumer is certainly in the background, the focus appears to be on the way lawyers practice rather than the impact of that practice on consumers. Who is the “protected class” here? The Brits concluded that consumers of legal services should be paramount, not lawyers. Why should it be any different here, especially given the global market legal services has become? Perhaps if the examination of the US legal pro-



fession were to be undertaken by a “non-lawyer” legal consumer—like David Clementi—a different result might obtain.

Efforts to effect change have been spawned in other US quarters. Soon after the great economic crisis of 2008, the Association of Corporate Counsel (ACC), the in-house watchdog of the corporate legal segment, launched its “Value Challenge,” exhorting large law firms—all with nearly identical economic models—to provide clients with greater value. Value, of course, is one of the cornerstones of most businesses, but its application is new—and largely unwelcome—to lawyers. So new, in fact, that considerable debate has ensued regarding what “value” means in the context of delivering legal services. It is telling that lawyers, a group so adept—and well compensated—for parsing words would struggle with an appropriate meaning—much less adoption of -- “value”. So too with “efficiency,” a word which still makes many lawyers bristle. Why? Because for many attorneys it is inimical to the purportedly bespoke services they provide.

The urban myth that all—or most—legal services are bespoke has been generally put to rest, but “efficiency”, “value”, and “transparency” are still viewed by many lawyers as a failure to appreciate the “unique” work they do. Perhaps attorney resistance to these business cornerstones is not so much a problem of diction but one resulting from the traditional law firm structure where the (short term) economic interests of lawyers and clients often conflict.

Which brings us back to “the customer is always right.”

CONCLUSION: IT'S ABOUT THE CLIENT, NOT THE LAWYER

When I was a young trial lawyer, the managing partner had a Daumier print in his office that depicted a rotund English barrister clad in his wig and robes. The barrister stood imperiously leaning on a lamppost



while a young woman, bedraggled and with two young children in toe, sat weeping nearby on the curb. The caption read: “You lost the case, Madam, but you had the pleasure of hearing me plead it.” Comically tragic as this is, it is right on the mark.

My friend Jeff Carr, former General Counsel of a Fortune 500 company, recently told me: “For many law firms & lawyers, ‘customer focus’ means focus on the customer as a source of revenue as opposed to focus on meeting the customer’s needs, objectives, and expectations.”

It’s time for lawyers to take the initiative and focus on those customer “needs, objectives, and expectations.” If lawyers fail to take the initiative and to adopt a more client-centric approach—with or without regulatory mandate—their customers will find those who will. Already, there are signs that this is happening as more and more work once described as “legal” is being handled by non-lawyers as well as by attorneys operating outside the traditional law firm environment. Henry Selfridge’s observation should serve as an admonition for lawyers: “The customer is always right.”



By Stealth or By Storm? The BigFour and the Legal Market

It does not take Perry Mason to crack the case that the Big Four intend to be major players in the global legal market. Steve Varley, Ernst & Young's managing partner in the UK and Ireland made that clear: "We aren't competing with the business models of traditional law firms, we are offering something new. Having lawyers, accountants, and other professional advisers working side by side will be a real advantage to our clients and ultimately help us to provide a better level of service." Sounds like E&Y is unabashedly serving notice on the embattled traditional law firm model that they see an opportunity and are poised to pounce on it. And these are not hollow words, either.

WHAT'S THE SECRET? THE BIG FOUR KNOWS ITS ADVANTAGE

Ernst & Young has made a number of recent moves around the globe that demonstrate its intent to take a big bite out of BigLaw's hegemony over legal spend. Consider the ABS license that E&Y—along with two of the three other members of the BigFour—has recently secured in the UK. Not only will that enable their legal team to engage in the type of multi-disciplinary practice that Mr. Varley described above, but it will also be a springboard for E&Y's legal troops to enter new markets. That ease of entry and ability to navigate regulatory roadblocks will be enhanced by the Swiss *verein* structure E&Y has, something shared by each member of the Big Four. But there's more. E&Y and its BigFour brethren share several advantages over law firms: (1) a global imprint and brand; (2) sophisticated technology; (3) deep proficiency in project, process, and price management; (4) strong client ties to the C-suites of Global 500 companies; (5) large legal practice groups that already engage in sophisticated legal work (though commonly in the guise of



“legal consulting” rather than “engaging in the practice of law—often a distinction without a practical difference); and (6) deep war chests. How deep you ask? The Big Four generate combined annual revenues of \$120 billion; the 100 largest revenue generating law firms globally produce a combined \$89 billion. Put another way, Big Four revenues are multiple times the size of the largest law firms. Translation: in an era of free-agency, the Big Four are the New York Yankees and BigLaw are the Oakland A’s.

E&Y’S CIRCUMNAVIGATION OF REGULATORY BARRIERS

But let’s return to the evidence suggesting that E&Y and the BigFour are deadly serious about taking on—if not taking over—the \$650 billion a year global legal market. E&Y has recently been granted a Foreign Practice License (“FLP”) in Singapore, enabling a foreign law firm to establish a branch in Singapore and to practice foreign law there. But how would this work in the case of Ernst & Young that is not a law firm? It’s tricky and additional evidence of E&Y’s intent to extend its reach into the legal vertical—and on a global basis. Follow the steps: (1) two E&Y partners, one formerly the managing partner of the Singapore office of a law firm there, the other E&Y’s General Counsel for the Asia Pacific Region (based in Singapore), established an entity called DA partners last year; (2) E&Y entered Singapore’s legal market by making PK Wong & Associate, a local firm, part of its global network; (3) DA partners used the Wong local presence to secure an FPL license months later. The result: John Dick (the “D” in “DA Partners”) was quoted in *The Lawyer*: “We view Singapore as a regional hub for providing *cross-border services to clients operating in the ASEAN (sic) region.*” Soaring rhetoric without substance? E&Y already has affiliated law firms in Vietnam, Korea, a Chinese firm based in Shanghai, as well as plans for Malaysia, the Philippines, and Thailand. These are countries where it already has in place well-established accounting practices and physical presence, clients, technology, process and proj-



ect managers, as well as other professionals. Translation: they are not jumping into the legal vertical from a standing start.

Do you get the impression that E&Y has a global strategy for tapping into the legal vertical whose disruption is well underway? If not, take a look at “Attack of the bean-counters” in *The Economist* and you might reconsider. That piece provides a superb summary not only of the Big Four’s (then Big Five) previous unsuccessful foray into the legal arena but also a sobering assessment of the reasons why its current incursion is likely to be far more successful: (1) the fallout from the global financial crisis of 2008; (2) client dissatisfaction with the inefficiencies of the traditional law firm model and delivery; (3) the huge technological and process investments made by the BigFour that are not shared by BigLaw; (4) regulatory changes—especially in the UK and Australia—but also in China, France, and Germany; (5) the large legal armies the BigFour have amassed (most of whom currently “practice” as consultants rather than “engage in the practice of law” as attorneys); and (6) their breadth, depth, brand, and war chest.

The fifth point above bears further mention—and parsing-- because the distinction between “engaging in the practice of law” and “providing legal consulting services” is blurred at best and obfuscates deeper changes in the way “legal” services are currently being delivered. This relates, of course, to the disaggregation of tasks once performed exclusively by law firms and now increasingly the province of legal service providers who do not share the same regulatory constraints as law firms. Among other differentiators, service providers can receive institutional funding, share profits with “non-lawyers”, and create equity both for their lawyers as well as others—such as technologists and accountants—who are instrumental in the delivery process and success of the company. Disaggregation began with “high-volume, low value tasks like document review but has now morphed to higher-value work including sophisticated cyber-security and regulatory “consulting”.



Put another way, disaggregation has greatly pared down the number of tasks that require—or are perceived to require—a lawyer performing them in a law firm structure.

The BigFour cannot (yet) set up legal shop as a law firm in the US (though they could certainly establish affiliate US firms connected to their UK and Asian bases) because of the current regulatory scheme. But that does not mean that they cannot—and do not—have robust legal consultancy practices in the States. And consider this: if you were to compare the practice areas those consultancy practices engage in and hold them up side-by-side to AmLaw 100 firms, you would be hard-pressed to tell the difference. What *is* the difference? It is often nothing more than: (1) a disclaimer that the consultancy is “not engaged in the practice of law”; and (2) risk is retained in both instances (though not emanating from “legal practice”), but in the event of liability, the claim against the consultancy would be covered by an errors and omissions rather than a legal malpractice policy. This means that: (1) in a functional sense, the BigFour already have robust “legal consulting practices” in the US, even if they do not deliver those “legal” services in the guise of a law firm; and (2) it will be a virtually seamless transition for the BigFour into the full-blown practice of law once US regulators wake up to realize that the rest of the world’s legal market is moving in another direction.

ARE SEMANTICS CREATING A FALSE SENSE OF SECURITY FOR LAW FIRMS?

The BigFour have already made deep, broad, and economically significant inroads into the global legal market. And that includes the US where, as has been noted, for regulatory reasons, it is labeled as “consulting” rather than “the practice of law.” This begs the question: is it any longer relevant to use “engaging in the practice of law” as the Maginot line to describe the delivery of legal services? And is it useful—as law firm lawyers do-- to segregate *legal* issues from broader



business challenges? This distinction is already becoming blurred for in-house lawyers who have far closer ties (including employment and ownership opportunities) with the client(s) they serve than attorneys at law firms. Lawyers should focus on practices that are deeply embedded in other knowledge based professions and the businesses they serve: collaboration, transparency, technology, efficiency, brand, and global presence. These are the defining characteristics of companies that are “winning” in today’s economy. Lamentably, they are not terms or traits one would associate with traditional law firms.

CONCLUSION

The BigFour have a big foot in law’s door. Whether they enter quietly or thunderously is of little moment. They have the tools and resources to solve complex global problems. Whether those challenges are called “legal” or something else is of minimal consequence. What is important is for lawyers to satisfy client needs and to do so cost-effectively and predictably. To those US lawyers who take comfort in surveys that report that most GC’s remain loathe to use accounting firms for legal matters, consider what CFO’s are already spending on those accountant firms’ “legal consulting” work. And consider too that in multi-disciplinary practice, lawyers may not be the ones characterizing the problem, so what was a “legal” problem becomes a “business” one. Who would win that jump ball: law firms or the BigFour? We may not be there yet but the trend lines point in that direction.

Law firms would be well served to focus on what clients want, because other knowledge-based providers of “legal” services are already offering many of those same services in a far more client-centric way. The myth that only a law firm can deliver all “legal” services has already been debunked, and multi-disciplinary practice, especially by the Big-Four, is already a reality (albeit outside the US). It’s time for lawyers to recognize that the traditional law firm model is seen as unsustainable



by some imposing competitors as well as by an increasing number of clients willing to entertain new legal delivery options, some of whom they are already well-acquainted with.



More Big Ripples From Across the Pond

The signs are legion that the Legal Services Act of 2007 (sometimes referred to herein as The Act)--which did not take effect until October, 2011-- is evincing a major impact upon the UK legal market and beyond. Scores of firms have secured licensure as “Alternative Business Structures”, enabling them to raise capital as well as share profits with non-lawyers, engage in inter-disciplinary practice, and confer equity upon non-lawyers who are increasingly becoming key contributors. The Act has spawned a more client-centric approach to the delivery of legal services that extends from High Street (retail) firms to the Magic Circle. Most of all, the proliferation of new models and heightened competition has rendered legal service providers subject to the same expectations of efficiency, transparency, and value as other businesses.

The repercussions of the Act are being felt far beyond the UK domestic market. This blog has previously considered the forays of white-shoe law firm Cahill Gordon and IT/document powerhouse Legal Zoom into ABS licensure (the former through its UK LLP). But the migration to the UK and the lure of operating in its re-regulated ABS environment has cast a far wider net than these two prominent US providers. Three of the BigFour accounting firms now have ABS licenses, and firms from around the globe including Australian-based Slaters-- the first law firm in the world to launch an IPO (2007 in Australia) are operating there too.

The UK legal marketplace is swingin’ (though not in the same way that produced “The British Invasion” and Carnaby Street), in part because of the Act and also due to London’s emergence as the economic capital not only of the UK but also, arguably, the world. Is it any wonder then, that the UK has established itself as the epicenter of innovation in the



legal marketplace as well as base camp for the globalization of legal services?

Three recent developments involving the Magic Circle, a mid-sized, provincial firm, and the retail segment underscore the dynamism of the UK market and its influence on the wave of globalization sweeping across the legal vertical. Let's briefly examine each and weigh its impact on the legal industry.

TA-TA TO LOCKSTEP IN THE MAGIC CIRCLE

“The Magic Circle” is a term used to describe five leading law firms headquartered in the UK, as well as four or five leading London-based commercial barristers’ chambers. The moniker has come to be synonymous with the UK’s corporate legal elite in terms of prestige, profit-per-partner, and client rosters. And its sway is not limited to the UK; four Magic Circle members ranked in the top ten of all firms globally based upon revenues. Historically, these firms have had a “lockstep” compensation model for partners wherein one’s points increased with years of service. Though the Magic Circle’s U.S. counterpart, the larger AmLaw 100, had largely abandoned lockstep during the past couple decades (with a few salient exceptions among its most elite ranks), the Brits clung to their “the firm first” approach. But that has changed recently. Though member firms Allen & Overy, Clifford Chance, and Linklaters have not abandoned lockstep, they have all recently adopted some form of “bonus pool” which enables them to reward those who make exception contributions to the firm (read: exceptional rainmakers) beyond the upper end of the lockstep formula. And this includes coveted laterals. What’s the big deal? It’s another example of a changing legal landscape and additional evidence that the UK stalwarts are fortifying themselves with ammunition they deem necessary to expand aggressively to new markets where they can now compete more successfully for “superstars.” And make no mistake about the global as-



pirations of Magic Circle firms, a large percentage of whose billings derive from cross-border and multi-border litigation and transactions. The Magic Circle firms are clearly focused on the globalization of legal services as well as leveraging their global brands and favorable regulatory environment.

IPO IN THE MIDDLE-MARKET

Gateley, a Birmingham based firm of about 450 lawyers just launched a successful IPO on the London Stock Exchange. The firm raised approximately \$45M (all figures here are converted from pounds) in its first day of trading, driving the share price about 15% above the placing price. The firm, which has revenues in the \$80M range, now has a market cap of approximately \$160M. It plans to deploy the new infusion of capital to hire top lateral talent, acquire additional practice groups, and provide it with flexibility to tap into advantageous growth opportunities. Is this a big deal? Well, consider that Slater's, which went public in 2007, now has a market cap in excess of \$2B. Now imagine what the Magic Circle firms would be valued at with their global brands, multi-billion dollar revenues, blue chip client bases, and top tier talent-- and the capital they could raise to fuel global expansion? Could their recent decision to supplant lockstep to retain superstars with a premium and lure new talent that same way be a precursor to even bolder steps such as going public? Stay tuned.

A ROLLUP IN RETAIL

And the action is happening in the retail segment of the UK legal market as well. Metamorph has secured backing from legal business consultancy Assure Law and has announced that it intends to stage what amounts to a rollup of 60 High Street firms during the next 5 years. Metamorph will secure ABS licensure and expects that it will be able to reap solid returns by injecting streamlined operations including con-



solidation of back-office operations and enhanced IT integration to this struggling segment of the market. What does this portend? It suggests that legal practices, like medical ones before them, will be rolled up, streamlined, made more profitable, and, likely packaged for sale or IPO. What's clear is that at all segments of the market, moves are being made to improve the efficiency of legal delivery and to scale it. In the case of the retail segment, such scaling might be nationwide, but in the corporate segment globalization is clearly the end game.

CONCLUSION

The UK legal market provides a view into law's future. While ABS structures, IPO's, and rollups may be anathema to some legal purists, they are clearly a part of today's global legal landscape. Whether they align the interests of the various stakeholders in the legal ecosystem (law students/the Academy; legal providers; and legal consumers) and provide better outcomes for each remains to be seen. But one thing is certain: the UK is in the vanguard of innovation in legal delivery and will likely serve as the headquarters from which that change will proliferate around the globe.



Bulking up and Flexing: The Shell Way

Years ago a friend took me to Venice Beach to watch, in her words, “the curious freak show of men and women power lifting and flexing by the Pacific.” It was a strange scene and made me wonder, “Why are they doing this and who are they doing it for?” Years later, the bulking and flexing process is playing out in a very different place: the Legal Department of energy giant, Royal Dutch Shell (“Shell”). Only this time, the reason for the display is obvious: Shell is an enormous consumer of legal services and has a great deal to gain from delivering and procuring them efficiently. It has simultaneously bulked up and streamlined its in-house legal department while also flexing its buying power by demanding greater value from outside counsel and circumscribing their use. Shell’s impressive show of strength and flexibility has yielded eye-catching results. Let’s take a closer look at what Shell’s OGC has done and why it may well portend where things are headed in the legal marketplace.

Shell is a huge company, #2 behind only Walmart in the Global 500. So it should come as little surprise that Shell’s in-house legal department is large, numbering 650 attorneys and an additional 350 paralegals and staff. But what is noteworthy about this in-house behemoth is not so much its size but, rather, its recent reconfiguration borne of strategic decisions that reflect a remarkably forward-thinking focus and execution. Shell has—to extend the body-building metaphor—bulkied up and trimmed fat internally while demonstrating flexibility, enabling it to insist that its outside firms “get fit” lest they lose Shell as a workout partner going forward. So what steps has Shell taken in its procurement (internal as well as external) and deployment of legal services and what are the implications?



SHELL'S IN-HOUSE TRANSFORMATION

Let's start by noting that a decade ago Shell's OGC operated in a decentralized manner (not unlike other multinationals); country chairs reported to the business units in piecemeal fashion and had their own budgets. This "tents in the bazaar" structure bears many similarities to contemporary Swiss *verein* law firms whose brand is often one of its few shared elements. Shell made the strategic decision to centralize its legal department, to grow it according to business unit needs rather than geographic ones, and to streamline and standardize operations, thereby taking important steps which have led to the creation of an integrated, collaborative, and highly efficient global in-house legal team. In so doing, Shell's in-house firm has become a model that is setting a high bar for its (pared down) outside firms, demanding more from them for less.

Specifically, here are some key highlights of Shell's recent initiatives:

- (1) 2009: consolidated work to reduce the number of outside firms. Result: eliminated redundancy, reduced outside spend, and established the groundwork for more competitive pricing and deeper understanding of Shell's business from the surviving outside firms;
- (2) 2011-2012: worked with its internal global contracts and procurement ("C&P") team to standardize contract management processes (Shell spends \$65B on 30,000 purchasing contracts a year). The result: millions saved and in-house resources previously dedicated to contract negotiation reduced or redeployed to other higher-value work;
- (3) 2012: created an in-house global litigation team of 80 lawyers in 15 countries. Result: substantial reduction of outside litigation fees (historically, a high-spend area) as well as reduced litigation portfolio (prophylactic counseling);



- (4) 2014: “Alternative Fee Arrangements” (“AFA’s”) became the *standard* fee arrangement for Shell outside firms handling aggregated legacy asbestos and environmental product liability cases. Result: \$9M saved as well as reduced cost of internal monitoring;

- (5) 2014: Donny Ching appointed Shell’s Legal Director. Mr. Ching had spent his entire professional career in-house at Shell, but has certainly not been bashful about effecting additional changes in the way Shell conducts its legal operations. Ching has already: (i) instituted an in-house support group to conduct research, handle training, and knowledge management for the in-house team; (ii) proclaimed that “AFA’s are standard, not alternative arrangements with outside counsel” (at least for Shell), dubbing them “Appropriate Fee Arrangements”; (iii) oversaw Shell’s 2014 divestment of over \$5B of US assets *and spent less than \$100,000 on outside counsel*; (iv) proposed more aggressive AFA arrangements with outside counsel (making clear that firms who do not get with the program will count Shell as a former client); (v) his internal team project-managed the legal side of Shell’s bid for BG, another energy giant (serving notice that Shell’s in-house legal team handles not just more of the company’s “routine” legal work but is also front and center in “bet the company” M&A and litigation work). Should it come as a surprise that Mr. Ching’s penultimate position at Shell was GC of Projects and Technology? Clearly, the man knows about process, efficiency, and how technology can be utilized to drive it in the delivery of legal services.

WHAT DOES THIS MEAN AND PORTEND?

Shell is an example of an in-house legal team, led by powerful and business-minded lawyers, not waiting for outside counsel to make good on the precatory changes enunciated in the ACC’s “Value Challenge.” Instead, Shell is exercising its client prerogative (and vast resources) to drive change internally as well as to demand it from its outside legal



providers. Donny Ching, his predecessors, and colleagues have demonstrated what a well-managed, aggressive, and value-driven law firm—albeit an in-house one—can do to streamline legal delivery and to address client needs. They have shown that a legal department (law firm) can undertake successful restructuring, streamline process, effect standardization, assume increased responsibility for work the team is especially competent to handle, maintain an integrated, collaborative approach, and more efficiently, seamlessly, and cost-effectively deploy outside resources *when they are necessary and under terms that ensure such deployment drives client value.*

Translation: Shell is sending what should be a sobering message to *ALL* law firms (in-house and outside) that the representation of multinationals and other corporations is not their birthright. Other options exist—including an ever-growing array of legal service as well as product providers—and it is incumbent upon law firms to deliver greater value lest they be further marginalized. But don't take my word for it; Donny Ching was recently quoted in *The Lawyer* cautioning: "Law firms talk about understanding the client and business partnership—but if they don't understand that and how that evolution is taking place now, they are going to miss out. It's the hard truth."

CONCLUSION

For those who dismiss the Shell example as an in-house outlier—albeit a very large and powerful one—consider this: one in four lawyers in the UK now practices in-house, and that number has doubled since 2000. Perhaps clients really are bulking up and flexing. And legal service providers, especially outside law firms, better get fit quickly lest, as Mr. Ching admonishes they "miss out."



A Glossary of Legal Terms

With so much being written about the changes afoot in the legal ecosystem, it is a good time to revisit the practical definition of some key terms. Here is a sampling:

- **CHINESE WALL:** a term applied to a conflict that involves lots of money and the construct by which it is swept under the rug
- **PARTNERSHIP TRACK:** an archaic term that once described a career trajectory at a law firm
- **PARTNER:** once synonymous with “tenured”, it now applies meaningfully only to law firm rainmakers who, themselves, are increasingly peripatetic.
- **ALTERNATIVE PROVIDERS:** a pejorative applied to law firms and legal service providers who do not conform to the traditional BigLaw economic model
- **PPP:** the quintessential BigLaw metric; see also “*hubris*” as well as “lateral bait”
- **VIRTUAL LAW FIRM:** another pejorative applied to law firms and service providers who do not share BigLaw’s “edifice envy” and, instead, rely on technology and a different economic model to drive down costs and promote efficiency
- **E-DISCOVERY:** formerly sometimes referred to as “The Lawyers’ Economic Relief Act of the Late 20th and Early 21st Centuries”; now the province of metric driven companies who have commoditized it
- **RFP:** an anathema to most, it is a process that often compares apples with oranges; see also “Royal F—king Pain.”
- **BESPOKE LEGAL WORK:** an urban fiction quickly being replaced by “commoditized tasks”
- **LEGAL SUPPLY CHAIN:** until recently, an unbundled collection of tasks and providers in need of integration



- **PROJECT MANAGEMENT:** historically, something inapplicable and beneath lawyers; now, another new element in the legal delivery process
- **BUDGETS:** see “Project Management”, *supra*.
- **LAW GRADUATE:** generally, someone who has incurred \$120K of law school debt (in addition to undergraduate obligations) and who has a 50/50 chance of securing legal licensure-required employment within 9 months of graduation
- **ASSOCIATE:** in BigLaw, an attorney who has about a 5% chance of becoming a partner (not necessarily an equity partner)
- **Law Firm Merger:** commonly mistaken for an acquisition by the firm with the higher PPP; also referred to as a lifeline to forestall bankruptcy
- **SWISS VEREIN:** an organizational structure promoting brand leveraging; see also “tents in the bazaar”
- **MENTORSHIP:** once a key element of legal training, it is becoming as rare as making equity partner at BigLaw
- **Service Partner:** the experienced workhorse at BigLaw; see “Partner”,
- **LAW FIRM:** Historically, a business entity formed by one or more lawyers to engage in the practice of law. What constitutes “the practice of law” is now under serious market evaluation, suggesting law firms will be something different soon.
- **LAWYER:** Historically, one who exercises legal judgment in the representation of clients. See “Law Firm” *supra*; a new definition is forthcoming.



CONCLUSION

It has become a popular parlor game for legal pundits to predict how, when, and by whom legal service delivery will be disrupted. There is no longer much debate *whether* disruption will occur. The question is in what form and by whom.

But the real story in legal delivery change is the ascent of new providers coupled with the precipitous uptick of corporate work now performed in-house. And there is also the increasing willingness of corporate legal departments to outsource work to service providers, not law firms.

And while the contours of these changes are being shaped, it's clear that the hegemony law firms once held over the delivery of legal services is now in the rear view mirror. Likewise, the days of lawyers performing all tasks associated with handling a “legal” matter, are over. Lawyers, like doctors, will now perform only core services for which they were trained. This includes providing legal expertise, high-value judgment, and representation whether before tribunals or in the corporate boardroom.

Everything else in the legal delivery process can leverage other disciplines and paraprofessionals- or see lawyers working outside the high-priced traditional law firm partnership model. This means that some lawyers might continue to perform non-core tasks, but they will do so working under different business models at lower cost and compensation levels.

As explored in this collection of essays, the legal delivery supply chain is undergoing a period of rapid development and transformation. The days of law firms having a stranglehold over legal delivery have given way to the rise of in-house lawyers and departments, legal service companies, and technology companies “productizing” tasks that were



once part of the bundle of services under the law firm's dominion and control. Now that the delivery model has become so much more varied and diverse, who will emerge as the integrator of the supply chain? Or in the words of Reggie Jackson – who will be the straw that stirs the drink?

Many lawyers would disagree, of course. But look at medicine. Twenty-five or so years ago, internists conducted almost all aspects of an annual physical. Today, the doctor synthesizes information and test results performed by others. Does this render the physical any less thorough or effective? If anything, the new delivery model puts even more emphasis on the need for clarity of vision and leadership in providing integration, guidance and general direction in shaping the overall treatment plan. As well, it leverages the doctor's time by focusing on tasks that she was trained to do.

Why should delivery of legal services be any different?

Legal practice is not under attack. But the traditional law firm structure is. It's a buyer's market, and clients- retail and corporate- have options and leverage. And new players are stepping into the market- a positive development- combining legal expertise with technology and business process. Legal delivery has become a three-legged stool comprised of all three. Law firms have the legal component but have a difficult time retrofitting technology and process. It's not in their DNA. By contrast, service providers are most closely aligned to the corporate model; the best ones combine legal expertise with technology and process- minus the cost escalating law firm partnership model.

The winning lawyers and structures will be those that focus on clients, not profit. They will implement new and better ways to serve clients by creating more cost-effective, efficient, and transparent delivery structures. They will also integrate the legal supply chain, forging seamless



relationships with different providers and ensuring efficiency and integration with technology and project management. And they will measure performance with metrics that track outcome as well as cost.

It is an exciting time to be a lawyer. The long dominant (if not monolithic) partnership model is giving way to new ones. This provides opportunity for legal entrepreneurs to create delivery models that will better serve clients-and society. The winners will be that deliver legal services in a more efficient, affordable, accessible, and transparent fashion.

That will be good for lawyers, too. Though only the truly differentiated ones might earn what they once did, there will be plenty of work to go around. And lawyers might enjoy a more positive public image because their services will be affordable to many in need of them.

It's a new ball game for the delivery of legal services.



About The Author



MARK A. COHEN is a global thought in the legal vertical. His unique perspective draws from almost forty years of high-level international law and business experience. His keen grasp of the contemporary legal marketplace derives in large part from his breadth of experience creating and managing pioneer legal providers like Clearspire.

Mark's background as a "bet the company" trial lawyer, counsel for several foreign sovereign nations, legal entrepreneur, early adapter of technology, legal service provider, Georgetown Law Professor, Bloomberg weekly columnist (among other publications), and strategist informs his direct, incisive, and unaffected perspective.

Mark is the CEO of [Legal Mosaic](#) a legal business consultancy that provides strategic advice to legal service providers, corporate legal departments, law firms, and entrepreneurs. Mark also occasionally renders legal counsel on complex commercial litigation and strategic matters.

He is a frequent speaker at global symposia, corporate and firm retreats, and law schools. He also has appeared frequently on webinars speaking on legal delivery issues. His pro bono work is focused on mentoring young lawyers and working with organizations focused on the access to justice crisis.

Mark has many interests and passions outside of law. He is married and the proud father of two adult daughters.