

The Threat of Legal Process Outsourcing to American Law Firms and What We Can Do to Save Our Industry

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How would you like a Tim Ferriss-style four hour work week? Impossible you say? Not with legal process outsourcing. Just send that multi-state research memo to India and your eDiscovery review to the Philippines. Why hire overpriced American associates when you can outsource to cheap, English-speaking lawyers overseas? Although tempting, legal process outsourcing has a dark side that threatens the American legal industry. In this TechnoFeature, document and workflow automation expert and technology consultant Seth Rowland identifies the major LPO players, explains what they offer, and then lays out an alternative strategy that American law firms can employ to reduce costs and compete globally while avoiding the fate of American manufacturing companies that outsourced themselves into extinction.

THE WORLD IS FLAT AND THE SUN NEVER SETS

Every revolution has its tipping point. The tipping point for legal process outsourcing (LPO) may have occurred two weeks ago when Thomson Reuters acquired LPO powerhouse Pangea3, which BigLaw columnist Marin Feldman [presciently profiled earlier this year](#).

Lawyers have finally begun to realize that our legal system is undergoing a transformation. Once a regional business managed by local and state bar associations, the practice of law has officially become internationalized. Thousands of lawyers in Mumbai as well as Australia, China, South Korea, New Zealand, Sri Lanka, Israel, and the Philippines are busy drafting legal briefs, abstracting leases, coding documents, summarizing depositions, and conducting due diligence. They are working under the supervision of American lawyers, for American law firms and corporations, on matters of American law.

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This revolution is made possible by advancements in computer technology and telecommunications that allow a virtual worldwide presence for the practice of law. Documents, data, and images can be stored in the cloud, accessible securely to users around the world. Thanks

to LexisNexis and Westlaw, anyone anywhere can conduct legal research. With the emergence of VoIP telephone service, Web conference services such as [GoToMeeting](#) and [WebEx](#) and [Cisco's TelePresence](#), virtual teams can work together at practically no cost. Using a virtual PBX system like [8x8](#) with a "SoftPhone", you can dial extension 10 for Mumbai, and extension 11 for New York.

This revolution is also made possible by cultural advancements. The globalization of "English" as a universal language for the conduct of business has resulted in more people speaking English as a second language than speak it as a first language, according to Thomas Friedman in his book, [The World is Flat: A Brief History of the Twenty-First Century](#). Former British and American colonies like India, South Africa, New Zealand and the Philippines also share a "common law" legal system. With a median salary of \$20,000 per year for an Indian lawyer, the services of a highly trained lawyer can now be offered for a fraction of the cost of an inexperienced American paralegal. Moreover, the time difference (10 hours between New York and Mumbai), is such that assignments given at the close

of business in New York, arrive early morning in Mumbai and often can be completed by the time the assigning lawyer in New York gets back to the office.

KNOW THE PLAYERS AND THE GAME

LPO heavyweights include:

[CPA Global](#)
[Evalueserve](#)
[Integreon](#)
[Mindcrest](#)
[Pangea3](#)
[Quislex](#)
[R.R Donnelly](#)

Up and coming players include:

[Aptara](#)
[Ius Juris](#)
[Lason](#)
[LawScribe](#)
[New Galaxy](#)
[Quattro BPO](#)
[SDD Global Solutions](#)
[Tusker Group](#)

Forrester Research forecasts the LPO market will reach \$4 billion by 2015 and over 79,000 outsourced jobs. (See *The Benefits of Legal Outsourcing*, ACC Docket, August 2009).

Law firm “outsourcing” initially was no different than general business outsourcing. Those functions that were not central to the “practice of law” were the first to be outsourced. Payroll and financial services were taken over by human resources specialists. Housekeeping, janitorial, food services, marketing, etc. soon followed. More recently, law firms have outsourced information technology, signing up for long-term managed services contracts.

However, when it came to outsourcing word-processing and secretarial work, the service agreements started to approach the core of what lawyers actually do. LPO does not technically involve the practice of law. LPO firms don’t “offer advice” but instead work under the “supervision” of licensed attorneys, thereby avoiding violation of ethical guidelines governing the “unauthorized practice of law.”

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What LPO firms do exceptionally well is identify “repetitive processes” than can be systematized and performed more efficiently by lower-wage employees without sacrificing work quality. These services are “bundled” together with a specially trained and supervised workforce that is made available on a “need to use” basis. Not only are the services substantially cheaper, you only pay for what you actually use.

At present, LPO work falls into 4 areas:

1. Secretarial, word-processing, and other forms of document preparation.
2. Contract management — contract drafting and review, including analysis and abstracting, as well as due diligence.

3. Legal research and writing, including multi-state surveys, appellate services, and even the preparation of pleadings and briefs.

4. Litigation support services such as document review, deposition abstracting, and eDiscovery.

With the addition of American management techniques and American-trained attorneys into the LPO workflow, as well as special education programs in Indian Universities, the quality and consistency of these services has improved in recent years. The price is right, and the quality is good. LPO gives you a 24x7 flexible workforce that enables you to replace your “fixed staffing costs” with “discounted variable staffing.” It all seems so inevitable. Is there no alternative?

BEFORE YOU LEAP

Numerous ethical opinions have sanctioned LPO outsourcing so long as the work is done under the supervision of an attorney and disclosed to the client. (See, e.g. *Assoc. of Bar of City of New York, Opinion 2006-3*). Apart from the generalized danger to our economy from further losses of high-paying skilled jobs, other factors may also militate against using an LPO.

If everyone outsources to the same “top 5” LPO firms, will any one firm obtain a competitive advantage? The gains from outsourcing may be short-lived. As an associate or junior partner, in working with an LPO firm, are you not training and educating your replacement? Can the firm

properly manage the quality and level of service? Where is the inspiration and moments of brilliance that are the stuff of legend and profits? If all the “easy work” is outsourced, how will your junior associates ever get trained? What about the professional paralegals and highly skilled legal secretaries who play a key role in a well-run law practice?

There are long-term hidden dangers from outsourcing. There is a risk that the legal industry could suffer the same fate as American manufacturing companies and become the “marketing” and “product development” arm of overseas LPO firms. The long-term damage to law firms from removing multiple layers of skill and service could be irretrievable. While partner profits may increase in the short term, LPO could transform the very nature of the legal profession.

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There are also cultural and language differences. The goal of the foreign outsourced worker is to meet targets and efficiency standards that may differ from an American lawyer's goals. Creative collaboration and excellence might be replaced by consistency and standards (think The French Laundry versus McDonald's) to the possible detriment of client service.

ALTERNATIVES TO LPO

I am not a fan of “inefficiency” or the billable hour. The days of “leverage” on the backs of associates and staff should end along with the [padding of hours](#), junior lawyers working on projects paralegals could handle, and the endless memos to file. But increasing productivity should not require sending our legal jobs overseas.

Many applications exist that could “save jobs” and increase profits. Document assembly technology offered by [Exari](#), [HotDocs](#), [Dealbuilder](#), and [XpressDox](#), some of which I have reviewed in this newsletter, provide such a level of efficiency and quality control, that there should be no need to outsource most transactional work.

Moreover, the use of these “expert drafting systems” in conjunction with databases, would obviate much of the need for much contract management and contract analysis services. In the area of litigation support, cloud-based services like [Lexbe](#) offer powerful litigation document management services for under \$99/month. And cloud-based document services like [NetDocuments](#), [Box.net](#), [Google Apps](#), and [Microsoft Office 365](#), enable virtual teams and wholly virtual law firms to share documents and collaborate in realtime.

American law firms could perform the intense analysis of the legal business process, evaluating the minute steps required to wage document-intensive litigation, conduct due diligence, and

draft legal pleadings. In defining these processes they could use process-mapping tools like [AllClear](#) or [MindManager](#) and [Mindjet Catalyst](#).

[AdvologixPM](#), a cloud-based practice management system based on [Salesforce.com](#) enables law firms to build sophisticated workflow, task assignment, and approval systems to coordinate the work of virtual teams in multiple locations. Development of these workflow and automation systems in-house would bring cost-saving efficiencies while at the same time creating competitive advantages. By keeping the knowledge in-house, the long-term viability of the firm is preserved.

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Moreover, some of the technologies that have fueled LPO in overseas countries could be used to support “homegrown” companies, “in-sourcing” or “home-sourcing” to parts of the United States with lower cost-of-living and consequently lower fees. While a 10-hour time difference works for overnight assignments, it doesn't work for realtime collaboration. There are many talented lawyers (and paralegals) who live in or would like to live and work in the Midwest and Mountain states. Prestigious law firms could shed much of their “real estate” budget for expensive office space,

while preserving a corpus of talented, productive, and happier attorneys working in alternative environments.

There are also “virtual paralegal” services cropping up in this country staffed by talented individuals with years of experience, such as [Thompson Paralegal Services](#) and [StarrParalegals](#). A number of Midwest and Mountain-state law firms have opened branch offices on the coasts in New York, Boston, D.C., San Francisco and LA. Through tech-

nology, these firms have built teams that take advantage of the lower costs of operation in the “middle” of the country, including use of home-based workers. Homesourcing has gained greater acceptance because it avoids the cultural differences inherent in outsourcing work to a foreign country — even if they do speak English.

CONCLUSION

Our legal system is being given a wake-up call. The pressure of the market is forcing the “profes-

sion” of law to recognize what Ed Poll calls “The Business of Law.” Law firms are under pressure to act like businesses. That means cutting costs and making charges more predictable. The sky has not fallen yet. We still is time to save the American legal industry. The same business process modeling used by LPO firms when combined with the appropriate technology can transform our law firms into sleek efficient, productive, innovative and highly profitable companies that serve as a model for the world to follow.

Seth Rowland, Esq. was named TechnoLawyer Consultant of the Year in 2002 for his contributions to TechnoLawyer on the subject of document assembly and law practice automation. He is a nationally known technologist whose company, [Basha Systems LLC](#), has helped many law firms build customized practice management and workflow solutions. He has worked at Cravath, Swaine & Moore and Kramer Levin, and his clients have included Proskauer Rose LLP; Orrick, Herrington & Sutcliffe LLP; Sidley Austin LLP; Husch Blackwell LLP; SNR Denton; Emmett Marvin & Martin, LLP; Shipman & Goodwin LLP; Bradley Arrant Boult Cummings LLP; and Honigman Miller Schwartz and Cohn LLP. Please feel free to [visit his blog](#) for the latest on document assembly and practice management.

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