

The Emerging Role of Non-Lawyers

John Sterling, Partner

Sterling Strategies

CONTENT AGENDA

- Introduction
- Macro level trends
- Delivering cost effective legal services
- Business development
- A practical tool and approach
- Questions/discussion

INTRODUCTION

INTRODUCTION

- Critical Success Factor – Having Great Attorneys
 - Well-trained, hard working, highly capable, client focused
 - That has become table stakes for more sophisticated law firms

- Non-attorneys will be a differentiating factor going forward
 - Well-trained, hard working, highly capable, client focused
 - Integrated into client relationships and service delivery
 - Deference to expertise

- “Lawyers are inclined to assume they can do anyone else’s job but no one else could possibly do what they do.” (Bruce MacEwen, *Growth is Dead*)

INTRODUCTION: 3 Areas to Watch and Act

- Responding to Macro Level Trends in the Legal Industry
- Business Development (and Marketing)
- Delivering Cost Effective (high value) Legal Services

MACRO LEVEL TRENDS

THE MACRO LEVEL TRENDS

- Organizational development(s)
- Consolidation and globalization
- Demographics
- Technology
 - Advancements in foundational practice support technology
 - Growing importance of knowledge management
 - Impact on marketing and communications
- Project management (LPM)
- Legal process outsourcing (LPO)
- Disruptive innovation

MACRO LEVEL TRENDS: Organizational Developments

- Non-attorney roles within law firms have evolved and become more valuable over the past 20 years

- Roles that are relatively pervasive in mid-size and larger firms now:
 - Business development director (not marketing communications – in addition to marketing communications)
 - Knowledge management director (sometime augments, sometimes replaces, sometimes directs the librarian)
 - Recruiting director (including an active role in lateral partner recruiting in some firms)

MACRO LEVEL TRENDS: Organizational Developments

- Roles that are clearly on the rise:
 - Project managers/LPM managers
 - Pricing managers (fastest growing position in the AmLaw 200)
- Historic roles that are more vital than ever/have more authority than in the past:
 - Technology director (including vendor management and procurement)
 - Chief Operating Officer/Executive Director
- Emerging roles (niche roles for select firms)
 - LPO director
 - Strategy director

MACRO LEVEL TRENDS: Consolidation

- The largest general practice law firms now exceed 3,000 attorneys and have footprints spanning three to five continents
- The largest “boutiques” have over 200 (for instance, Finnegan has over 250 – add patent agents and other timekeepers and they are over 300)
- Non-Attorney Role: Director of Strategy in a number of larger firms is focused on M&A (identification, evaluation, negotiation, integration)

MACRO LEVEL TRENDS: Demographics

- There is a simple industry wide (truthfully, a societal) issue relative to generational demographics. A very large cohort of baby boomer partners will be retiring over the next 20 years. In fact, by 2020 half of the boomer cohort will be 65 or older.
- If you look at the broader demographics, the generational cohorts create something akin to a roller coaster.
 - Baby Boomers are a large cohort of over 80 million people
 - Generation Xers are a smaller cohort of roughly 60 million people
 - Millennials are a large cohort of over 80 million (similar in size to the boomer generation)

MACRO LEVEL TRENDS: Demographics

➤ Response to the crash has been to hire fewer new associates and hire more laterals (with mixed results)

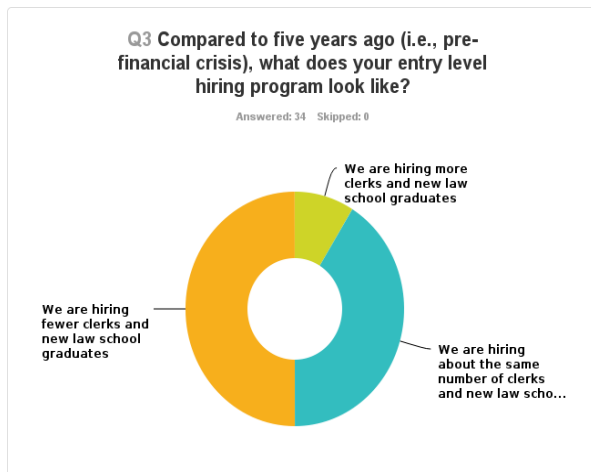


Chart 6: Growth in Promotions and Laterals: 2007 vs. 2011

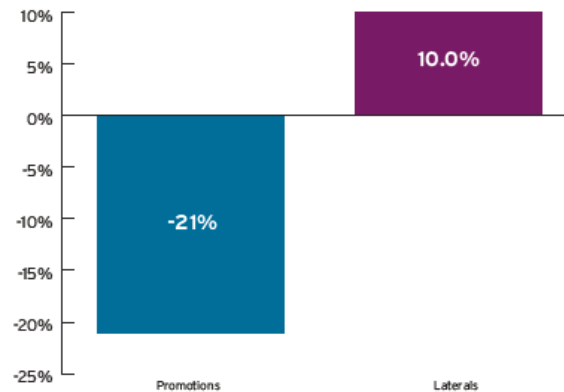
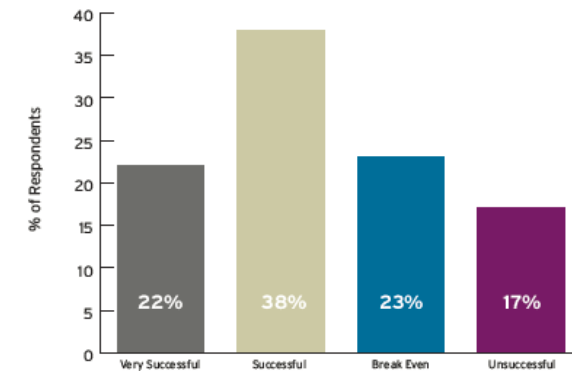


Chart 7: Lateral Success



Source: Citi 2012 Law Firm Leaders Survey

➤ Non-lawyer role: Recruiting director at entry and lateral levels; Business development and strategy on integration

MACRO LEVEL TRENDS: Technology

- So-called “big data” makes large scale document retrieval and “technology assisted review” do-able
 - Computer assisted coding and other approaches to initial document review are proven to be more accurate and effective than human review
 - This creates countervailing trends: 1) the emergence of enormous cases; 2) an incentive to avoid enormous cases (on clients’ parts)

- Running debate regarding in-sourcing versus outsourcing e-discovery technologies – including captive e-discovery businesses at major law firms

- Gartner projects growth of litigation support software to approach \$2.9bn by 2016 (Note: it is growing faster than earlier projections already \$1.4bn in 2012)

MACRO LEVEL TRENDS: Technology

- The law library and legal research have been fundamentally transformed – access to information has been streamlined dramatically
- Wiki-based technology enables up-to-date information to be captured and made easily accessible – replacing brief banks, form files, etc. – rise of genuine knowledge management
- Automation of forms and processes enable para-professionals to manage many aspects of routine legal matters

MACRO LEVEL TRENDS: Technology

- Web 2.0 technology has changed marketing communications
 - Brochure-ware web sites are still necessary – no one meets anyone without checking their web site
 - However, search engine optimization and other technology tools can enable boutique and “big enough” firms to be more visible (and professional looking) than their larger competitors
 - Social media tools create at least two further opportunities for marketing communications
 - It makes building and maintaining professional networks easier and cheaper (advantage: millennial generation)
 - It enables disciplined professionals to project their expertise to a wide audience via the internet

MACRO LEVEL TRENDS: Project Management

- Clients' desire for predictability and control over the cost of large scale litigation and transactions has led many firms to adopt project management principles for selected matters
 - LPM provides discipline and measurement for the process – it does not influence legal strategy or the application of legal judgment to a matter
 - It is particularly useful in cases or matters involving definable and repeatable processes – either over many similar matters or over very large scale matters with repeated sub-tasks
- Early attempts to train attorneys on project management principles have generally failed (old dogs – new tricks)

MACRO LEVEL TRENDS: Project Management

- Firms have turned to certified project managers (from the IT, construction and other disciplines) to serve as project managers for multiple matters across a practice or firm
- LPM is particularly helpful to firms taking financial risk in the form of fixed fee arrangements (or other arrangements in which predictability and control are highly valued)
- Some clients are hiring project managers to work directly with (and to ‘manage’) their outside law firms
- Non-lawyers are clearly more effective project managers and can be leveraged across many matters

MACRO LEVEL TRENDS: LPO

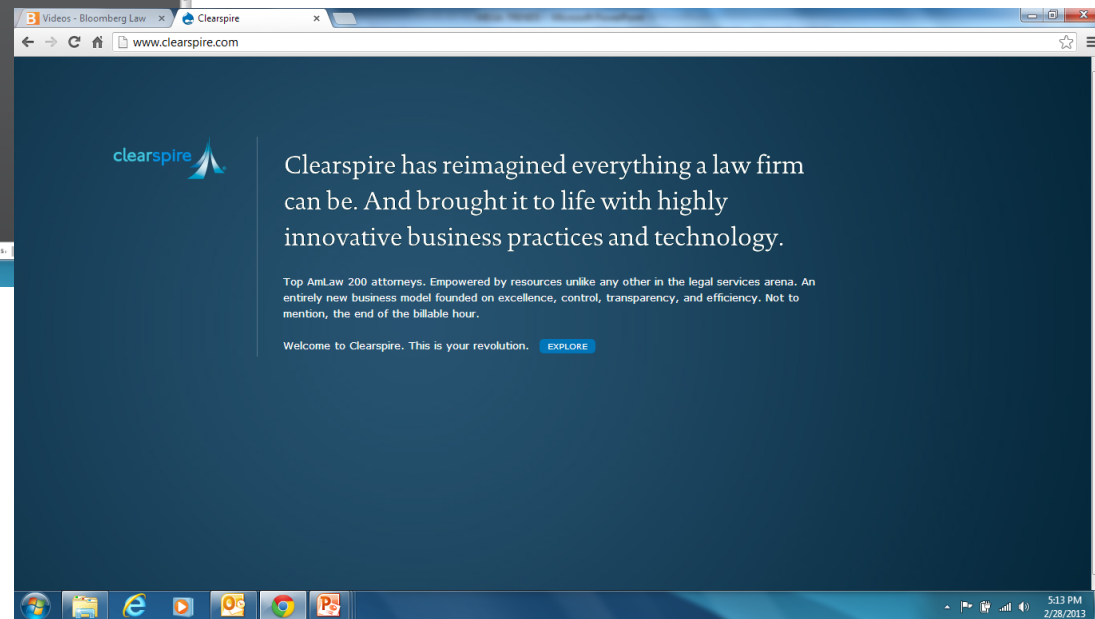
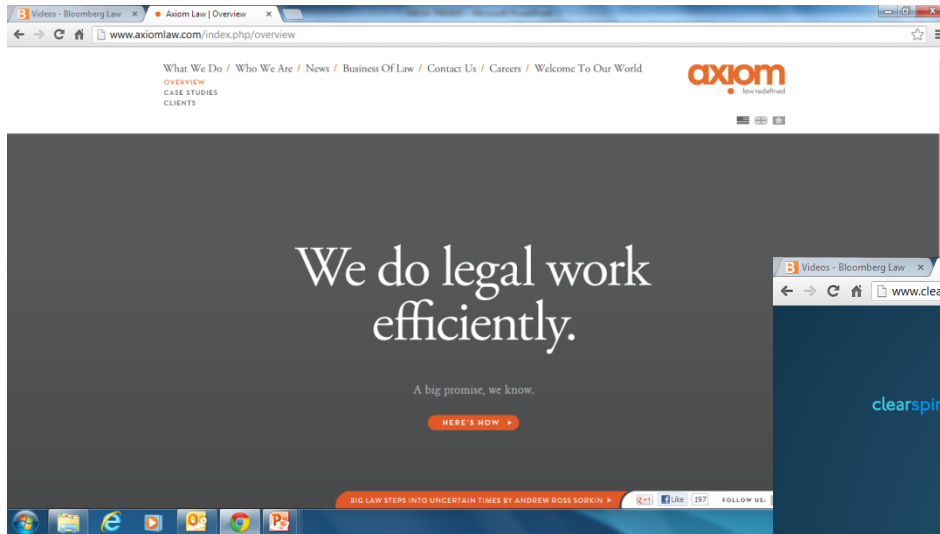
- The use of contract attorneys has been common for many years and is the simplest form of LPO
 - Some clients now contract separately with (or for) contract attorneys – buying that work at “wholesale”
 - Mark-ups on contractors are in sharp decline

- Orrick and others have had great success moving back-office work to low cost markets – and have now moved selected legal work to these operations as well

- Global law firms and major corporations have also moved selected work entirely off-shore – often with positive results

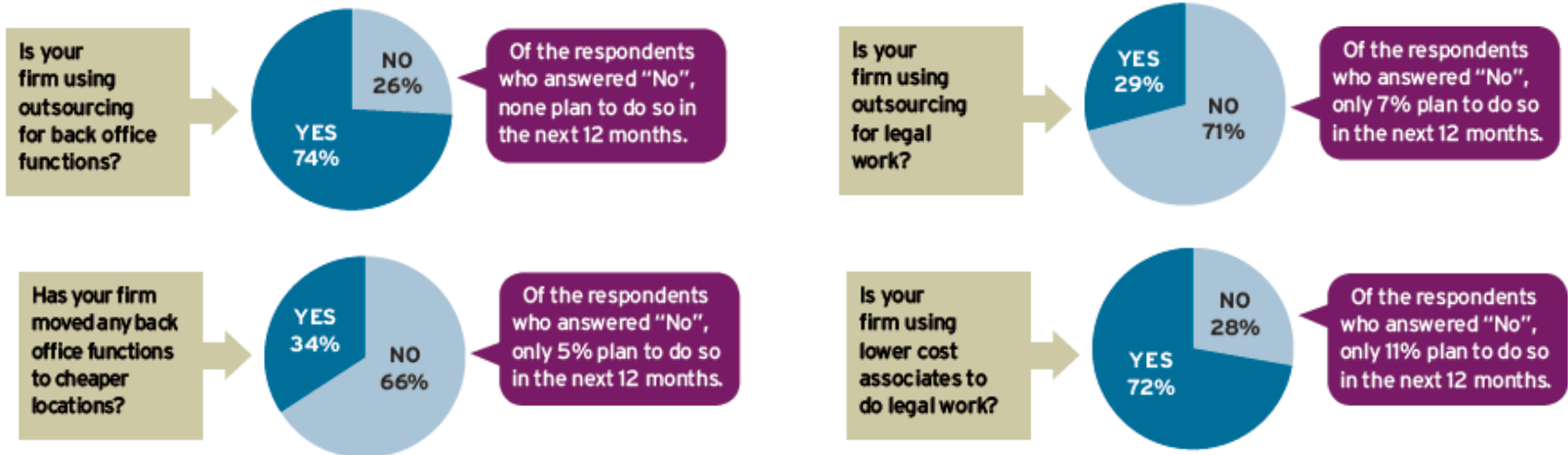
MACRO LEVEL TRENDS – LPO

➤ Entire firms now exist essentially as LPO's



MACRO LEVEL TRENDS: LPO

➤ Are firms ready?



Comparison of survey results for Outsourcing legal work by firm size

Outsourced legal work in 2011	Under 250 lawyers	250 or more lawyers
Yes	1.9%	21.2%
No	98.1%	78.8%

COST EFFECTIVE LEGAL SERVICES

COST EFFECTIVE SERVICE DELIVERY

- The rise of new business models in the LPO space is a prime example of disruptive innovation
- Disruptive innovation focuses on delivering “good enough” products or services
 - Disruptive innovations target and capture the so-called low end of a given market – usually by delivering “good enough” performance at a dramatically lower price than full service/function incumbents
 - Examples include things like online legal services (self-service incorporation, copyright applications, employment agreements, etc.); the application of computer assisted coding (to replace human document review); and of course the LPOs discussed above

COST EFFECTIVE SERVICE DELIVERY

- Non-lawyers will play a critical role in helping traditional firms deliver services more cost effectively (i.e., delivering more value for fees)
 - The application of foundational information technology (and managing technology vendors)
 - Process redesign (six sigma, lean process and similar methodologies)
 - Knowledge management (almost always coupled with technology and process redesign)
 - Integration of para-professionals into the delivery of legal services

COST EFFECTIVE SERVICE DELIVERY

- Integration of para-professionals into the delivery of legal services – thought experiments. Who should...
 - Manage and execute large scale document review (divide the labor between partner-level lawyers, associate level lawyers, and experts in document management and database analysis)?
 - Be doing financial analysis on transactions, structured finance, estate planning and other spreadsheet/model driven legal services (divide the labor between partners, associates and non-lawyers with a finance degree/training)?
 - Help clients with risk management analysis associated with their legal portfolio (is there a role for actuaries)?

BUSINESS DEVELOPMENT

BUSINESS DEVELOPMENT

- Talking to clients – a central and critical role for business development professionals
 - Gathering genuine, actionable client feedback
 - Expanding existing client relationships (e.g., facilitating cross-marketing)
 - Identifying opportunities to deepen and strengthen existing relationships via process improvement, technology, pricing and other innovations
- If powerful partners can push business development professionals (and their own partners) away from direct contact with select clients, the firm is at a disadvantage and at risk

BUSINESS DEVELOPMENT

- Business development professionals are ideally situated to facilitate “co-creation” with clients (a form of innovation coined by Prahalad and Ramaswamy) and to orchestrate the involvement of non-lawyers in strengthening client relationships

- Co-creation involves the use of four tools:
 - Dialogue – Interactivity, engagement and a propensity to act – on both sides (client and law firm)
 - Access – To information and tools
 - Risk Assessment – Deeper understanding of the risks (and trade-offs) when selecting and creating a particular solution
 - Transparency – The transparency principle calls on firms and clients to be open regarding costs and processes

PRACTICAL TOOL AND APPROACH

PRACTICAL TOOL AND APPROACH

- Practical, hands on approach (something to take home)
- Five step program (pilot with one client to start):
 1. Pick a client with whom you have a broad (i.e., multiple practices, multiple partners), deep (i.e., significant volume and revenues), and warm (i.e., mutually trusting) relationship.

PRACTICAL TOOL AND APPROACH

2. Start a dialog with that client – will likely require multiple conversations with multiple people in the client organization
 - A review of the work the firm has been doing (good, bad, otherwise)
 - A discussion of the work the client is doing in-house (who, at what cost, and why)
 - A discussion of the work that the client is sourcing to other law firms and contractors (relationships, cost, expertise)
 - A discussion of the new legal issues and/or projects are coming down the pipe

PRACTICAL TOOL AND APPROACH

3. Analysis of the full portfolio of legal issues, matters and risks the client manages by client service team (lawyers and non-lawyers)

- The volume of work associated with each category of work
- The cost sensitivity of that work
- The risk profile associated with the underlying legal issues
- The level of expertise/specialization needed
- The firm's current capabilities in each area
- The firm's ability to improve the value the client currently captures (e.g., via process, people, technology improvements)

PRACTICAL TOOL AND APPROACH

4. Plan of action and recommendation to the client for each substantive category of work within their portfolio

- Some things should continue largely as is (status quo, whether done by the firm, the in-house team, or someone else)
- Some should continue to be done by your firm, but with a new approach, model, or set of tools (e.g., KM, project management, etc.)
- Some may call for a more robust in-house team – that may include moving things out of your firm to the client’s in-house team

PRACTICAL TOOL AND APPROACH

4. Plan of action and recommendation (cont'd)...

- Some work should probably be moved to your firm (either from in-house resources or from other firms – be prepared to demonstrate the superior value you will deliver as a result of that change)
- Some work should probably be moved to others – to low cost vendors (some you will manage and some your client will manage) or to highly specialized experts

PRACTICAL TOOL AND APPROACH

➤ Five step program (cont'd)

Client Portfolio	Volume	Cost Sensitivity	Risk Profile	Expertise/ Specialization	PPP Opportunity	Best Value/ Recommend
Corporate compliance						<ul style="list-style-type: none"> • Status Quo • Stay with us, but with new model/tools • Build in-house team • Move to us <ul style="list-style-type: none"> • Move to other(s) <ul style="list-style-type: none"> ▪ Experts ▪ Low cost
Transactions						
Real Estate						
IP (subdivide)						
Litigation (subdivide)						
Employment						
Others						

PRACTICAL TOOL AND APPROACH

5. Recommendations and the related plan should be presented to the client's team – ideally by a team from your firm (e.g., relationship partners, other legal experts, selected functional area leaders).
- Investments the firm is prepared to make on the client's behalf (e.g., new technology, tools, process improvements)
 - Cost implications of managing the portfolio of work as recommended (e.g., reduced total cost, improved total value, and/or a reduced risk exposure for the client)
 - Benefits the client can expect from adopting the recommendations.