

Time to get on board

The legal process outsourcing ship has sailed and Canadian law firms need to make sure they're not left behind by clients seeking more cost-effective legal services.

BY KEVIN MARRON

There's a boat leaving for India and Andrew Fleming knows he has to get on board, even though he feels a little queasy about the idea of sending legal work overseas. A senior partner at Norton Rose OR LLP and former managing partner in the Toronto office of Ogilvy Renault LLP, Fleming is well aware of the pressure from corporate clients to cut the cost of legal services and of the value of legal process outsourcing (LPO) as a way of delivering more efficient services.

Nevertheless, when it comes to actually advising clients that an offshore outsourcing outfit can do some legal tasks more cost-effectively than his own firm, Fleming admits it makes him uncomfortable. "I get this pit in my stomach and feel considerably unwell because I think, 'Oh my gosh, I'm suggesting that this work go elsewhere and leave the profit pool that I'm sharing,'" he says.

Yet, it's a feeling that has to be overcome, because clients cannot afford to and will not pay for an associate at a major law firm to do routine commodity work, though they still want their law firm, not only to provide expertise on more complex matters, but also to work with them in managing the whole legal process as efficiently as possible. Therefore, says Fleming, "you have to accept that there are some things you do well and some things you don't."

Ever since they appeared on the horizon a few years ago, legal process outsourcing services that employ relatively low-paid lawyers or paralegals at home or abroad have inspired trepidation and intense debate in Canada's

legal marketplace — a source of hope for many cash-strapped legal departments and a perceived threat for some lawyers and law firms that profited from racking up billable hours for routine tasks, such as drafting agreements, conducting research, or reviewing documents.

But, today, LPO is no longer a future promise or a spectre looming on the horizon. It's now a practical solution offered by Canadian-based companies with overseas operations that offer the cost advantages of offshore outsourcing while providing the reassurance of oversight and management by Canadian-based lawyers. It's a solution espoused by large banks and many other corporate legal departments. And law firms are facing growing pressure from clients either to help manage outsourced solutions or accept that clients will make their own arrangements with legal outsourcing.

Whether it is perceived as a threat or a new opportunity for law firms, it's widely agreed that LPO represents a sea change in Canada's legal marketplace. Lawyer and law firm consultant Jordan Furlong of Edge International Inc. puts it this way: "LPO is not a threat to law firms, but it is a threat to the way law firms traditionally have gone about their business because what LPOs bring to the equation is efficiency, a focus on process, and a much more streamlined approach to the creation and delivery of legal work."

And it's something that law firms can't afford to ignore, says Hilary Clarke, a senior partner at McMillan LLP. To do so would mean ignoring the real pressures that are forcing clients to reduce costs "so by not considering dif-

ferent ways of performing legal services you really aren't serving your clients," she says.

Furlong points out that LPO will likely prompt law firms to change the way they do business by adopting many of the techniques outsourcers are using. Clarke says McMillan is already doing this. She uses the term "multisourcing" to describe how her firm responds to corporate clients' need for more efficient legal services. She says McMillan has used an Indian firm to handle routine repetitive tasks in a cost-effective way "to great advantage."

McMillan, like a number of large Canadian firms, also offers solutions based on what has become known as in-sourcing, a term used in the United States to describe the growing practice whereby large law firms shift commodity-type work to regional offices staffed by lower-paid associates. Clarke notes her firm has five offices across Canada and "can take advantage of the resources in those five to deliver the most cost-effective services, whether that is because there are lower billing rates in other places in Canada or that there is expertise in certain locations."

At Norton Rose, Fleming says he is sometimes in a position to tell a client who is interested in offshore outsourcing that "we can give you the same efficiencies and the same result by putting the work in our Quebec City office or by using a local service provider of paralegal talent."

Michael Shannon, a partner at Toronto-based Cassels Brock & Blackwell LLP, who specializes in personal injury litigation, says he often uses the services of Taran Virtual Associates Inc., a London, Ont.,-based provider of

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outsourced legal services that relies on a network of Ontario lawyers. Shannon says he uses the service, not for routine commodity-type work, but as a cost-effective source of specialized expertise in his area of law.

Stephen Taran, founder and president of the network, says one advantage of using a home-based outsourcing service is that the work is being done by an Ontario lawyer and is therefore billable to clients as a legal fee, rather than as a disbursement — and law firms can, with clients’ permission, charge clients more for this service than the hourly rate charged by the outsourcer, thus making outsourcing a profit centre for the law firm.

An outsourcing service such as this can also make a huge difference for small law firms or individual practition-

ers who do not have access to a pool of associates or paralegals. For example, Judith Wilcox, whose solo practice has offices in Alexandria and Hawkesbury in eastern Ontario, uses Taran Associates, not only for legal research, but also to handle court appearances that would otherwise require her to drive up to 500 kilometres, thus saving her time and saving her clients the cost of her mileage. She says this form of outsourcing allows her to spend more time with her family, as she would otherwise find herself using entire weekends to do legal research for which she would not even charge her clients her full hourly rate.

Gavin Birer, a lawyer and the founder of Legalwise Outsourcing Inc., a Markham, Ont.-based firm with operations in Bangalore, India, says law firms would manage legal process out-

sourcing better if they took a more strategic approach. Currently, he says, corporate law departments tend to take a strategic approach whereby they develop an ongoing relationship with outsourcers who can then adapt to their present and future needs, while law firms tend to use outsourcing tactically, often calling at the last minute when they have a big job that they need to offload.

Fleming maintains that law firms need to be more proactive in dealing with outsourcing. They should become familiar with the marketplace and do due diligence in investigating outsourcing firms so that they know which ones are reliable and can prepare to work in tandem with them. “If you don’t get on the boat now, it’s going to be really rough to try and get on it later,” he says. 