



## Contract attorneys and the changing legal landscape

Last night's and this morning's lead story in the legal media: 800 law firm jobs lost in one day. And there will be more firings to come ([click here](#) for a sample). For the contract attorney market there is a little gloating and perhaps a little *schadenfreude*. Especially in the switch by AmLaw 200 advisers who first spoke about "the stigma of contract attorney work" and who have now changed their tune to "well, maybe **temping** ain't half bad" as so ably chronicled by Gabe Acevedo in his blog *Gabes Guide* ([click here](#)).

We're a bit bemused ourselves by the sudden surge in Posse List membership, a large percentage of that increase being ex-AmLaw 200 folks based on the resumes we are receiving. How much of a threat they will be (will agencies want them? will law firm want them?) remains to be seen. A bigger threat is probably going to come from the associates who are still at firms and are using document review as a way to maintain their billable hour requirements. Paralegals on The Posse List have told us that is happening and that firms have "altered the value" (reduced the bill rate?) to clients.

The bigger threat to contract attorneys continues to be legal process outsourcing (read: India, mostly). It's been going on, really, since 1995. It took off like a shot in 2001 but seems to have ramped up in the last 5-6 months and was recently stamped "ok" by the ABA opinion along with the 4 collateral state bar opinions, although ABA journal articles from 2005 and 2006 touted off-shoring as a necessary and integral part of law firm management.

Of major recent interest is the new Limited Liability Partnership Act in India (passed last month) which paves the way for foreign law firms to set up shop in India ([click here](#) and [here](#)). But it's not so much the "setting up shop" aspect that intrigues us. Looking beyond that, it will allow the big UK and US law firms that have been pushing the Indian authorities to change to set-up internal LPO units. This is not lost on the more savvy Indian LPOs who are scrambling to be in a position to set-up turn-key operations for law firms. We think an element of off-shore outsourcing is here to stay despite the expected (hopeful?) economic recovery, just as the traditional document review centers of DC and NYC have lost business to the less expensive venues of Chicago, Pittsburgh, Houston/San Antonio and the Carolinas .

But India is beyond the scope of this posting and will be addressed in a much more detailed posting next week as we attempt to provide the history, scope and future of that aspect of outsourcing (we'll ignore the growing LPO industries in Egypt, the Philippines and South Africa for the moment).

And perhaps the reality is that a client may not really want to send its work overseas, that these outsourcing discussions really highlight a client's desire to simply seek lower cost alternatives, including sending work to smaller firms and "farmshoring" — working with law firms in smaller metropolitan areas where billable rates are lower but quality is just as high, or going with niche firms.

But is all this just due to a brutal economic patch? Will things "return to normal" and will AmLaw 200 alums return to their happy lairs? Is there a tectonic shift going on which is now only apparent because of the economic maelstrom? And what does this all mean for the contract attorney market? What are the trends?

One of the immediate trends is one we stated in our post-LegalTech review which was that vendors expect a shakedown of the EDD market in the next 12-to-24 months, leaving a handful of big players as opposed to the hordes filling the booths this year. With so many vendors, it's clear the competition is fierce. Gartner recently published a detailed market study on the entire e-discovery software/technology industry outlining this shakeout ([click here](#))

For contract attorneys, it means increasingly streamlined reviews because the level of competition among the software providers is forcing them to spend a lot of time and money into creating products that make them stand out from the rest and ultimately produce more accurate and efficient means of conducting searches as well as more tools to monitor and control costs (including performance metrics).

That, coupled with the "meet and confer" philosophy we discussed in an earlier posting puts pressure on the parties to devise a very focused (and hence shorter) discovery process.

A second immediate trend is that covered by Charles Skamser in this blog [The Ediscovery Paradigm Shift](#) which discusses, amongst other things, the transformation that is going on within the legal market in regards to the paradigm shift of e-discovery being brought in-house by corporations and their use of EDDs to build in-house centers, as evidenced lately by the Kazeon/Suburu match up ([click here](#)).

This parallels our LegalTech discussions with in-house counsel who said more legal work is staying inside corporate legal departments and moving away from law firms. As we profiled in a post a few weeks ago, ACC members have reported a much larger use of contract attorneys in-house, especially in doc reviews and compliance projects. EDDs have probably made more headway in this than staffing agencies, especially in the early case assessment software area and the "preventive software" area such as data mapping programs. As several in-house corporate lawyers told us "we're the front line in e-

discovery” and “we need to be in more control, not outside counsel”. They said “we need to get our digital houses in order” with a dedicated e-discovery coordinator in place. Well, that’s the mission anyway.

But doesn’t it appear there really is a tectonic shift going on which is now only apparent because of the economic maelstrom? We believe there is and no one captures this better than Richard Susskind in his recent book [\*The End of Lawyers?: Rethinking the Nature of Legal Services\*](#) which relates how technology, collaboration, globalization, and other forces are changing the fundamental rules by which legal services are bought and sold. It’s a sequel to his 1996 book *The Future of Law* which was right on target in it’s predictions on how the law would be transformed by IT.

And no one covers this tectonic shift better than Jordan Furlong in his blog [Law21](#) which are his “*dispatches from a legal profession on the brink*”. Jordan recently reviewed the Susskind book and he’s given us permission to post an excerpt:

*The book is characterized by several key observations about how the legal marketplace is being transformed, with three especially significant ones:*

- 1. The identification of an evolving and fluid spectrum of legal services categories: bespoke (one-off, customized or tailored), standardized (drawing upon precedents, process or previous work), systematized (reduced and applied to automated systems), packaged (systematized services exported to clients) and commoditized (packaged services so commonplace as to have little or no market value). Most lawyers insist that their services cluster around the left-hand end of this spectrum; Richard convincingly argues that movement to the right is inevitable for many types of legal services, with profound implications for lawyers’ business models.*
- 2. The decomposition of legal tasks into component parts that can be delegated to various sources, few of them actual law firm lawyers. Twelve types of destinations for this multi-sourcing (reminiscent of unbundling) are identified: in-sourcing, de-lawyering, relocating, offshoring, outsourcing, subcontracting, co-sourcing, leasing, home-sourcing, open-sourcing, computerizing and no-sourcing, each of which is explained in more illuminating detail. Despite this multiplicity of legal work performers, an overarching entity responsible for managing the work must exist, and all the systems and processes involved must work together seamlessly.*
- 3. In the context of astonishingly deep and rapid technological advances, the emergence of no fewer than ten disruptive (in the Clayton Christensen sense) legal technologies: automated document assembly, relentless connectivity, the electronic legal marketplace, e-learning, online legal guidance, legal open-sourcing, closed legal communities, workflow and project management, embedded legal knowledge, and online dispute resolution. These developments offer tremendous opportunity for more efficient and effective legal services delivery; but they also represent major threats to various aspects of the traditional law firm business model.*

For his full review [click here](#). You can also follow Jordan on Twitter [by clicking here](#). Jordan also recommends an equally good read, Bruce Marcus on the massive upheaval in legal practice which you can [access here](#).

There is a lot said in that three paragraph summary and the actual book goes into all the detail. But it is all driven by two forces: a market pull towards the commoditization of legal services; and the pervasive development and uptake of new and disruptive legal technologies.

Oh, and our jobs. The problem is that everyone else has the same problems right now so there's a need for a personal constructive approach.

And one thing happening is that many laid-off lawyers (and contract attorneys) are shaking off the "inner hysteria" (Susan Cartier Liebel's phrase; see below) and going solo, going independent. See links [here](#), [here](#) and [here](#).

And what about being an independent contract attorney? Possible? Of course it is. Hard work? Of course it is. But we provide just two examples of how it can be done and how successful you can be: Kimberly Alderman at [Lawyer On! The Contract Attorney's Blog](#) and Lisa Solomon at [Legal Research and Writing](#).

And building a solo practice? Then start with Susan Cartier Liebel and her blog [Building a Solo Practice](#) and Carolyn Elefant at [MyShingle](#). And check out Rex Gradeless at [Social Media Law Student](#).

And no, we aren't getting fees for the honorable mentions above. We are trying to assist the Posse List membership as best we can. You now number 13,000+ and include lawyers, law students, law firms, EDDs, legal organizations, etc. Many of you have asked us to cover freelance and "going solo" solo opportunities.

Well, we can't replicate all the phenomenal sites and bloggers out there that cover freelance, independent contract attorney opportunities and going solo opportunities so what we'll attempt to do is point you the right direction. We expect to launch our new site within the next 10 days (Lord willing and the crik don't rise) and will incorporate a potpourri of links. And we'll continue our distribution of news on document review work projects, Federal government projects and the seeming endless stream of foreign language projects in the U.S. and Europe.

In the end, as Jordan Furlong and I believe, the day is coming when the appellation "contract attorney" is a redundancy. Or as Jordan picks up the theme: "I can see more and more 'free agent' lawyers working when they need/want to, coming together and dispersing on a project-by-project basis, and generally turning on its head the presumption that most lawyers work in law firms".

Stay tuned.