

Contract Lawyers and Other Emerging Trends in Solo and Small Firm Practice: A View from the United States

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Introduction

Technology is changing everything! In the United States, attorneys in solo practice and small law firms are experiencing radical change. The practice of law, like any other business, is inescapably affected by technology. We, as attorneys, are continuously confronted with both challenges and opportunities.

Challenges, because technology demands changes in how law has been practiced for decades. Technology empowers consumers (our clients) by giving them greater access to information which has long been our monopoly and financial "cash cow".

Opportunities, because that same technology can level the playing field and allow small firms the means to compete with large firms and offer ever higher levels of service to clients.

I believe small firms are particularly well-positioned to benefit from technology. To illustrate I will discuss some examples of how many small firms in the US are leveraging technology to expand and enhance not only their legal business but also their quality of life.

I. The Emergence of Contract Lawyers

One interesting trend occurring throughout the US is the increasing use of contract or free-lance lawyers. This trend is consistent with the overall move towards outsourcing in all kinds of businesses.

Contract lawyering is simply outsourcing legal work. In the US, it has long been customary to outsource non-core functions of a legal office (such as bookkeeping, reception, even administrative and paralegal work.) As technology facilitates the flow of information to people who are not sitting in the room next door, your bookkeeper, secretary or paralegal may now be sitting in another office or even their home while they work for you.

The logical progression of this trend has evolved into the outsourcing of legal work itself.

The emergence of contract lawyers is also due to a shift in perception of work and leisure time. There are as many kinds of contract lawyers as there are legal practices, and not all contract lawyers are mothers with young children.

In the US, contract lawyers are often highly experienced lawyers who have grown tired of the 70 hour -work-week grind. They want more freedom and flexibility to pursue other interests, such as spending more time with family, outside businesses or hobbies. Their legal skills offer an easy way to be mobile and make good money with low risk and overhead costs as compared to operating a small practice. Many simply don't like dealing directly with clients, and they know they will get paid for all the work they do when they work for law firms.

Contract lawyers are now flourishing in the US, in a way that fits in with the whole small firm ecosystem. Many small practices find contract lawyers fit beautifully into their business strategy.

II. The Economics of Contract Lawyering

A lawyer's business strategies are not different from those of other businesses i.e. delivering services to clients efficiently and effectively (quality, faster response time and lower costs). The basic idea for outsourcing is simple: hire expensive talent only as and when you need it.

The math is equally simple: the hiring firm bills the contract lawyer out at its regular rate - say, \$300 per hour. It then pays the contract lawyer a reduced amount - say, \$150 per hour. The contract lawyer, with his low overhead, still pockets more money per hour worked (even after taxes) than he would have made as an associate. And he works when and for whom he wants to work.

Here is an illustration as to where a contract lawyer can be used by a small firm (mine) that handles general business law for small to medium enterprises. A good client of my firm had an opportunity to enter into a joint venture to supply parts to a company in Canada. My firm had three options:

1. handle the matter itself, and risk doing a poor job because neither partner was familiar with international and Canadian law;
2. refer the client to another firm that could handle the matter competently, and risk losing the client to that firm; or
3. hire an attorney with expertise in Canadian import/export law to handle the matter.

Fortunately, I was privileged to work with such an expert in the Seattle area. She was licensed to practice in both Canada and Washington State, with more than 15 years of experience in international commercial law. She accepts projects of this sort on a free-lance basis, which allows her time to write, teach and pursue another business. In the situation above, I would have called her (well, actually, I'd have sent her an e-mail).

So, as the contract lawyer, she provided the technical expertise, legal research and drafting to my firm, without having direct contact with the client. My firm reviewed all material, signs all documents and accepted final responsibility for the work product (in some cases, there would be joint responsibility in terms of professional indemnity.) I find that the work product was excellent due to the contract lawyer's expertise, and it was completed in a shorter period of time and at lower cost to *my firm* than if I had hired an inexperienced associate to cover the new matter. This is a win-win-win solution.

III. Leveraging Technology to Create a Win-Win-Win Solution

Technology Creates Virtual Presence

Practising as a contract lawyer really only makes sense when, as now, technology makes it possible to provide high-quality work from virtually any location, at any time, with limited or no staff. But perhaps an even more important contribution of technology is the *ability to connect firms with contract lawyers quickly and efficiently in the service of the client's needs.*

As we all know, the client's matter is always urgent. Therefore, from the hiring firm's point of view, using a contract lawyer is only a good solution if that person is easy to find, has the right skill set and can start work immediately.

From the contract lawyer's point of view, it is important to have a steady and targeted stream of work coming in, without having to expend overhead costs to produce the leads. This kind of networking is a function which on-line directories and e-mail perform particularly well.

Specialisation and the Development of Cross-referral Networks

On-line networking can also help small firms in a more traditional way: by optimizing networking. Consider again the three options available to the small firm discussed above. Recall the referral to another firm under option 2 was less attractive due to the risk of losing the client.

However, another important trend in law - increasing specialisation - means that small firms may increasingly leverage one another's strengths by developing cross-referral networks. The key is: you must trust the firm to which you refer your clients to return the client to you and, equally important, to do a good job.

Bar associations and other formal networks of lawyers, of course, have traditionally performed this networking function for many years. However, in my experience this kind of networking is haphazard at best, and doesn't result in a steady stream of new clients. Lawyers in the US tend to aggregate in groups of other lawyers in the same field of practice, thus missing the opportunity to meet and get to know attorneys with expertise in other, complementary fields.

Cross-referral networks present small firms a tremendous advantage over large ones. The small firm attorney is not required to refer her client to her associate in the corporate law department, who may or may not have the best qualifications for this international law problem. Instead, she is free to refer her client to an attorney whom she knows has the relevant experience in this area and will do a good job for her client.

So, the key to having this network operate smoothly is specialisation. Ideally, the small firm receiving the referral specializes in that particular area of international commerce. It doesn't want to practice general business law. Instead, its business strategy is to leverage its strength by seeking quality referrals in its specialisation from other small firms.

Hence, the receiving firm should be able to charge clients premium rates by emphasizing the quality of its services, while maintaining a billable rate lower than that of large or international firms operating with much higher overhead. Because the receiving firm has a specialisation, it is in its strategic interest to return the client to the original referring firm. In line with its core competences (specialisation), it also prefers to refer its "general" business clients to the referring firm.

Contract lawyering is simply a matter of finding your businesses' niche, the advantage that differentiates your firm from your competitors.

IV. Conclusion

Only a small percentage of all people and companies use legal services. The general reasons for not using legal services are because lawyers are too expensive and potential clients don't believe they need such services.

But legal services are expensive, no question. I'm sure we all agree that every business has a need for preventative law, contract drafting and review, and consultation on best practices, if cost were no object. Yet large law firms cannot afford to reduce their rates sufficiently to reach this huge pool of potential clients because their overhead rates are so high. Thus, small firms with high standards, well-known expertise, and a rich network of firms focused on complementary niches, have a tremendous competitive advantage over large firms.

Herein lies the opportunity awaiting small firms to take full advantage of the benefits of technology. They should not allow the unpleasant mechanics of change deter them.

Law is such an interesting and diverse profession, and practising in a small firm is a very rewarding way to pursue it.

Imagine what it would be like: to practice in a non-political atmosphere, with reasonable hours, doing work you enjoy and in which you specialize, and being able to choose your clients. I know many small firms where this occurs, and the firms make money, too.

If a small firm can make full use of technology and exercises good business sense, the possibilities are endless.

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