

INNOVATION

Acceleration in the adoption of innovative legal service delivery

Looking back at 2020, it is trite to say that the only constant has been change. The COVID-19 pandemic not only impacted the nature of lawyers' work by presenting new substantive legal challenges, but it also impacted how we work. Dispersion of workforces to remote locations hastened the adoption by most, if not all, professional service providers, including legal professionals, of collaborative tools and online solutions; dramatic uncertainty in business conditions reinforced the imperative of doing more with less.

The pandemic also provided a platform for conversations between lawyers and clients about innovative legal technologies, tools, processes and staffing models in a more widespread way than ever before, accelerating the pace of their adoption. One clear example is the increased focus on Alternative Legal Service Providers (referred to as ALSPs, and when functioning within law firms, as captive ALSPs) and the corresponding move by in-house legal departments to embrace them. As described below, the captive ALSP model is providing clients with innovative services and products, which are in turn assisting in addressing

the substantive legal issues facing all aspects of a client's business in this challenging environment and beyond.

Why are law firms creating new businesses in parallel with traditional legal service delivery?

[Home Court Advantage: The Am Law 100's Move into Alternative Legal Services](#), a recent survey by legal industry advisors Baretz + Brunelle, highlights the significant growth of captive ALSPs. Baretz + Brunelle reports that 35% of the largest law firms in the United States now have a captive ALSP, with a large majority of these ALSPs offering at least one service in addition to e-discovery.

Not surprisingly, this rapid expansion is intended to create more value in the delivery of legal services, particularly in relation to higher volume work. Not all legal services need to be delivered as bespoke solutions at the highest price point. Optimizing more routine service delivery, where appropriate, through lower cost, higher efficiency platforms allows legal professionals to better align their interests with those of their clients. Innovating with respect to the means of service delivery in this way can result in a better experience for clients, who can often take advantage of data-enhanced insights, improved efficiencies and lower, more predictable legal fees. This model also paves the way for developing innovative modes of service delivery within the captive ALSP in order to provide the promised value and efficiency.

The captive ALSPs become part of an end-to-end solution for consumers of legal services, allowing them to obtain the level of advice they need, commensurate with the complexity of the matter, at the optimal price point and all from one service provider.

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Sample areas of service delivery within ALSPs

Baretz + Brunelle identified several areas of service delivery within the ALSP model. Principal among these – and the area that provides the greatest scope for innovation – is the use of technology to perform operations. Leveraging technology can assist with making tasks more efficient by using software and artificial intelligence solutions. In particular, technology can often be used to perform routine tasks more quickly and in many cases more effectively than a human lawyer. The result is that adoption of software, AI and data analytics can rapidly improve functions such as documentary reviews for due diligence or for legal proceedings.

More specifically, on the transactional side, using machine learning tools, such as Kira Systems, can enhance the review and analysis of documents for purposes of due diligence or other contract review. Similarly, contract automation or assembly tools such as Contract Express allow for faster generation of documents, promote standardization of those documents, decrease the opportunity for and risk of error and can improve profitability and productivity. Legal transaction management tools such as Closing Folders provide a platform for the electronic administration and management of documents, particularly in the context of transaction closings. Compliance and legal entity management software can reduce risk by means of compliance calendars and reminders, as well as provide real-time access to entity data.

On the disputes side, e-Discovery review platforms, such as Relativity, can drastically reduce the volume of data for manual review using analytics, such as deduplication, email threading, key word searching, communication analyses, concept reports and data visualizations. Machine learning algorithms can further reduce volume by actively identifying and segregating relevant documents. The shift from a manual eyes-on-every-document review to computer-assisted review results in lower costs and increased accuracy. Platforms like Relativity that were historically used strictly for e-Discovery, now have expanded use cases, including for data breach and reporting reviews, internal investigations, competition reviews and regulatory requests.

Like external ALSPs, captive ALSPs also benefit from increased flexibility in pricing their services. As a result of efficiencies gained from technology and the dedicated expertise of the ALSP, the cost of legal services performed by ALSPs is more generally predictable. This benefits both captive ALSPs and law firm clients, who can share in the efficiencies gained through fee arrangements other than the billable hour, be it flat or fixed fee, contingency or other risk-sharing arrangement. Captive ALSPs may also serve a special advisory role with respect to legal technology as they are uniquely positioned to address client matters and pain points using firm owned technology and the associated technical expertise.

For some law firms, captive ALSP businesses are only the beginning of their innovation platform. A small, but growing, number of firms have set their sights on building and offering productized legal services to their client base. Legal products typically leverage the traditional bespoke legal expertise of a firm's lawyers in designing and building the technology, and then subsequently deliver legal services through a self-serve automated platform, an alternative staffing model – or some combination of the two – under a fixed or other predictable fee arrangement.

These solutions provide businesses with access to specialized legal expertise on a cost-effective basis when tackling everyday legal and legal operational challenges – for example, in standardized high-volume commercial transactions. Some firms, through captive ALSPs, have built centralized portals for completing smaller financing transactions that take advantage of an interactive platform and contract automation to generate documents efficiently. In other cases, firms may develop platforms to assist their clients in the better management of their contract portfolios through the use of interactive abstract databases of key terms and provisions.

Products such as these allow consumers to derive greater value from their legal budgets, with routinized – but nonetheless important – legal work being done at a lower, predictable cost through ALSPs and legal products, and more complex strategic and advocacy work reserved for higher-cost lawyers.

Innovative legal service delivery at Osler

At Osler, our captive ALSP – Osler Works – has been in business for the better part of a decade. Through this time, Osler Works has expanded significantly and now operates through three divisions: Osler Works – Transactional (OWT), Osler Works – Disputes (OWD) and Osler Works – HR (OW-HR). These services provide a broad and growing range of value-added ALSP services.

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Through Osler Workshop, our products arm, we work closely with our clients and with Osler Works to develop technology-enabled solutions. Our products include Osler Dash (a franchise disclosure and contracting solution for franchisors), Osler ACTion (a legislative and regulatory tracking solution for financial institutions) and Osler Code Detect (a software detection tool). Leveraging data is also a priority. For example, we are in the process of developing a case assessment offering that uses interactive checklists and machine learning software to extract critical data points for use in a decision tree analysis of a case. This analysis maps litigation options using weighted probability modelling, including actual dollar figures, to assist with strategic decision making. The case assessment tool can be applied at any stage of a dispute or investigation, including pre-claim analysis, strategic checkpoints, mediation, trial and beyond.

These services not only provide meaningful added value for our clients by performing repeatable tasks on an efficient basis, but they have also changed the nature of practice for students, associates and partners of the firm. Embracing this change has allowed our practitioners to focus on solving complex problems not easily addressed through technology-enabled offerings.

We look forward to seeing COVID-19 in the rear-view mirror. However, we expect that the adoption of innovative legal service offerings that the pandemic has helped to foster will set the stage for new creative legal solutions that drive greater value to consumers of legal services even after the pandemic is over. That's good news for all of us.

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