

Horizon Scanning: Modernizing Legal Service Delivery



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Executive Summary

If we could know in 2020 what we will know in 2025 (only five foreseeable years into the future), how would we change our attitudes, actions, and the way in which we practice law, the services we offer, the clients we target, and the ways in which we choose to deliver our services? Indeed – if we could have known a year ago the events of the first three months in 2020, what might we have done to prepare? The American writer and humorist, Mark Twain, advised: “When everybody is out digging for gold, the business to be in is selling shovels!” So, what foreseeable trend may represent the figurative “shovel” that every client will need tomorrow?

Horizon Scanning: Modernizing Legal Service Delivery takes a look at the ways in which the delivery of legal services might change in the foreseeable future, bringing together the advice of leading industry practitioners and consultants who scan the legal horizon for indicators of change, offering their predictions, and sharing experience and practical guidance to help law firm leaders prepare for what is coming up next.

Our opening chapter is by Patrick J. McKenna, author, lecturer, and strategist, who advises leaders of law firms to take a good look around them at the trends in the industry happening right now, as an indicator of what might happen in the future. Getting to the future first requires firms to be deliberately farsighted. By investing some serious time in examining trends, it can enable you to see what competitors may not, thereby allowing you to get a serious jump on exploiting new opportunities or preparing contingency plans for the possibility of any disruptive events unfolding. Tomorrow’s potential threats and explosive opportunities are already being hinted at today, and you can see the beginning of trends often years before they become common knowledge. Seeing the future requires that you understand the potential of what is already happening. The essence of winning in a competitive marketplace is to be at the right place before the right time.

This principle of looking around you is continued in chapter two, in which David Kerr, director, Moore Legal Technology, explains that law

firm client expectations are fundamentally shaped by their experience of other industries. Health, insurance, and banking are all streets ahead of the legal sector in terms of marketing and client care. What's more, clients deal with ultra-modern businesses every day – take, for example, JustEat, Uber, Rightmove, Amazon, AirBnB, and Aldi. As yet, no law firm has become household in the same way.

These industries and businesses are winning because they have put their clients' innermost desires first. Whether that is through branding and messaging, or technology, or the very solution they provide, all have disrupted their particular sector. So, what do modern clients want? And what can modern lawyers do to deliver it? Chapter two explores these questions and examines the methodologies and technologies available to firms to deliver what their clients want.

Law is a service, and the end user always has to be considered. But what does customer focus really mean for law firms? Eighty percent of solicitors think they provide good or excellent value for money whilst only eight percent of clients think the service they receive from law firms represents excellent value for money. Chapter three, by Jon Whittle of Jon Whittle Consulting Ltd, explores the very real paradox in perceptions of value at the heart of the relationship between law firms and their clients. Why do most law firms struggle to understand why there is such a gap in perception of value between them and their clients? Why do lawyers persist in thinking that the problem lies with the client and not with them? Jon explores what law firms should do to change and survive in an era of increasing deregulation and when faced with the arrival of non-traditional legal competitors who have built businesses forged on genuine customer focus.

This theme is expanded upon in chapter four, from the perspective of the banking sector. With seemingly never-ending regulation, what is being done to improve the life of the end client? Typically, large corporate/multinational clients will have small teams of lawyers to assist their treasury function. Often, there will be just one or two lawyers; however, these same lawyers may have up to ten banking relationships with at least five to ten documents to manage. So, when new banking regulation requires existing documentation to be altered or new documents to be put in place, it is often the banks who groan at the thought of large outreach and high project costs.

Jason P. Williams, global head of client service management at HSBC, argues it is the end client who is ultimately impacted and who should be in front of banking lawyers' minds when considering ways of working. Ultimately, it is these clients who are at the end of the process where

great burden is placed. It is time that the industry devised working practices to reduce the amount of re-work required or effort needed to be compliant with new regulation as it arises.

The book's focus then shifts to technology, and how new ways of working – tools, processes, tech – will shape the delivery of legal services. The key to successful practice for small and solo practitioners is changing, much to the dismay of many. Others are unaware of the change. What most do know, though, is that they are making less money.

Technology has long been touted as a solution to increase clientele, generate increased revenue, while simultaneously lowering costs. Lawyers, however, have long been taught they cannot and should not embrace change. To be successful today, lawyers must collaborate with those who can best provide technological gains. In chapter five, Wayne Hassay, managing partner at Maguire Schneider Hassay, LLP, believes these collaborations can be accomplished while lawyers fulfill their professional responsibilities to clients. Moreover, by embracing technology, lawyers will be able to practice at the top of their law license. The risk, effort, and capital for matters collateral to the practice of law, such as client acquisition and administrative tasks managed by technology, can be borne by the collaborator. For lawyers who collaborate best, profits will increase. If lawyers do not succeed, alternative service providers may overwhelm the marketplace. Of great importance, lawyers can finally designate the majority, if not all, of their time to the practice of law – a dream come true for many lawyers.

Nathan Cemenska of Wolters Kluwer then argues that Artificial Intelligence (AI) isn't just the future of legal – it is the present. Approximately 12 percent of corporate legal departments have already deployed artificial intelligence in some capacity, which means that the industry is shifting from a world in which only “innovators” and “early adopters” were using the technology into one where the “early majority” begins using it. Chapter six surveys the current state of an industry that is already using AI to do things like predicting outside counsel spend, cycle times and outcomes on individual legal matters, converting paper invoices to standardized electronic ones, and parsing law firm invoices to identify billing guidelines violations.

Nathan also discusses how these technologies will become more powerful and eventually do things like routinely creating attorney timesheets, reviewing legal invoices automatically, and connecting corporate law departments with new vendors who are better able to meet their needs. This step-change in technology will allow the business of

law to move beyond what legal matters do cost to identify what they should cost, leading to a much more valuable and valued service.

Whilst not disagreeing that AI and technology will change the landscape of legal services, chapter seven by Merry Neitlich and Jerry Rosenthal states simply that technology is not necessarily the solution. We live in a rapidly changing world where innovation, such as artificial intelligence, is pervading every aspect of our personal and professional lives. The ability to have some element of automation to perform “commodity” activities is wildly appealing. Technology is a path that some legal professionals tend to pursue out of the gate as the solution to creating better innovation, predictability, and efficiency.

What are oftentimes missing are the foundational concepts of resolving the client’s pain points. Leaders who take the path of first exploring a client’s biggest problems in the delivery of legal services have the clear advantage. Any size law firm or provider of legal services can create a winning distinction by taking the time to delve deeply into the issues most troubling for the client. Once these issues are clearly identified, process improvement strategies, which might include process mapping techniques, can be explored. Only then can we start to unearth real solutions for the client. These may include technology, but maybe not. It’s truly up to the client, and codifying the best strategies to solve their pain points. This chapter addresses the aspects of leadership and problem solving that are lacking in many law firms and legal departments, and transcends nearly all industries.

Law firm relationship management has always been driven by personal connections and personal relationships. Very little has changed, but future methods of relationship management will veer away from the personal and move towards more objective and empirical foundations. In chapter eight, Lucy Bassli, founder and principal of InnoLegal Services, argues that data will become a staple in those relationships and will drive which relationships continue and which ones may end.

David Galbenski of Lumen Legal agrees. Words like “innovation” and “value” are omnipresent in conversations about the state of the legal industry, but few people know what to make of such terms. Value, in particular, has little meaning anymore, precisely because people prescribe so many meanings to it. The only way to define value in the legal industry these days, he maintains in chapter nine, is to rely on legal precedent. As Justice Stewart observed when grappling with how to define “obscenity”, when it comes to value, you know it when you see it. Consumers of legal services are demanding more value than ever from legal services providers, be they traditional law firms, in-house

legal departments, or alternative legal services providers. Technology is often pointed to as the main driver of value; and it may be some day. But not yet. The legal tech market is still shaking out. In this chapter, David Galbenski argues that we can't rely on science alone to drive value. We must balance science with art – the art of deploying people to their highest and best use, and refining processes that allow technology to perform to its highest potential. In short, this chapter focuses on the steps that law firms, ALSPs, and in-house legal departments can take to create more value now (with a focus on people and processes), which will allow data to be gathered that enables technology to accelerate value creation in the delivery of legal services later.

Chapter ten argues that future growth will be determined by focusing on industry expertise. In the second of his two contributions, Patrick J. McKenna discusses how what specific label you attach to your industry groups matters to clients and how seriously they will view you; how with most initiatives you need to also be cognizant of the sub-industries or micro-niches that are there, and lucrative pockets of opportunity to be serving; and how developing and effectively marketing industry expertise is *the* strategic differentiator.

Chapter 11 then takes a 360-degree look at law, now and in the future. As a wife, mother, executive, founder, and lawyer, over the past 30 years Mary Juetten, founder and CEO of Traklight, has seen all sides of the law. Her unique perspective includes a variety of legal client experiences and time as a vendor, law firm executive, lawyer, legal technologist, access to justice advocate for a group legal services company, and several stints as operating company leader, in and outside the US.

This diversity demonstrates the need for change and technology that cuts across all age groups and types of the law. The need exceeds the solutions and not just for those without the funds to pay. The provision of legal services, whether corporate or personal, must be given a fresh look based solely on the customer's needs; a true switch to demand from supply.

In our final two chapters, we look at how recent global events may shape the future of legal services. The universal pandemic is rearranging many aspects of our daily personal and business lives. Global safety and health concerns have been compounded by the economic hardships that are expected to beseech many countries and markets as we prepare to enter into a massive global recession. Many companies will be forced to cut or cancel unnecessary spending, budgets and resources, resulting in higher unemployment because of a dramatic reduced demand for products, services, and travel. In chapter 12, Richard Brzakala argues

that almost every aspect of society, regardless of geographic boundary, economic stature, or political system, will be impacted and will need to readjust their thinking to a new world brought on by a pandemic that very few expected or were prepared for.

Litigation historically surges after crises and economic recession. In light of recent global events, companies must prepare because more litigation is on the way.

In chapter 13, Shook, Hardy & Bacon LLP partner and general liability practice co-chair, Paul Williams, reminds us that although litigation is often inevitable, the traditionally-encountered burdens associated with it can be strategically managed to mitigate their impact on the company, its people and operations. Sophisticated litigation management begins with identifying risks and limiting exposure by establishing clear legal and business objectives to guide business strategy.

A company can then leverage the best features of right-fit teams and available time-saving processes and technologies to achieve efficient and effective outcomes across its litigation portfolio. With a client-focused partner, companies are empowered to anticipate and control litigation spend and strategically manage their litigation outcomes, while also achieving a better overall litigation experience in an environment compatible with the company's culture and business objectives.

About the authors

Lucy Bassli is an attorney, author of *The Simple Guide to Legal Innovation*, and a former assistant General Counsel of Legal Operations and Contracting at Microsoft. While at Microsoft, she redefined how legal work is done and created one of the first managed service engagements with a law firm.

Lucy is a highly sought-after legal industry expert who works with corporate legal departments and law firms on legal service delivery, automation, smart risk-taking, and alternative resourcing models. She educates and consults with lawyers to take best practices in the legal industry to a new level. Lucy is also a strategy advisor for *LawGeex*, an AI legal start-up that automates contract review services.

She is a frequent writer and speaker on legal services innovation, legal technology, and legal process outsourcing. In 2015, she was named to the *National Law Journal* list of Outstanding Women Lawyers.

Richard Brzakala is a recognized legal marketplace thought leader and expert in legal operations, sourcing, and cost efficiency strategies. He has been a trusted advisor for many senior executives and GCs, having worked and consulted for numerous FIs, law firms, and government agencies. Richard is a frequent speaker and panelist and has published numerous articles on such topics as legal sourcing, winning RFPs, convergence practices and creating corporate cost-saving strategies and lately on the importance of cyber and information security in the legal marketplace. He is a contributing author for Thomson Reuters Legal Executive Institute, chairs a number of legal sourcing and discussion groups, and also participates in an executive advisory capacity for a large global legal services company. In 2017, a leading US legal publication recognized and awarded Richard with its trailblazer of the year award for his work in implementing a standardized process for evaluating law firm compliance with cybersecurity standards in the legal community. Most recently, Richard has written a book entitled *Show me the math: The importance of cost estimates in the legal marketplace*, soon to be published by ARK Group. Richard is currently working as the global director of

external legal services at a leading Canadian FI where he is responsible for the compliance, finance and risk management practices as it relates to the management of external counsel.

Nathan Cemenska is the director of Legal Operations and Industry Insights at Wolters Kluwer ELM Solutions. A former practicing attorney, his job is to stay abreast of legal operations trends and best practices and share those insights with ELM clients and potential clients, internal sales and product development teams, and senior management. A frequent blogger and legal operations conference speaker, he previously held positions as a senior business analyst at Elevate Services and a legal tech procurement consultant at UpLevel Ops, a prominent California-based legal operations consultancy. He got his start in legal operations in 2014 after earning his MBA, moving to the Bay Area from Ohio, and volunteering for the Corporate Legal Operations Consortium.

David Galbenski is an entrepreneur, lawyer, author, and public speaker with global reach. His entrepreneurial achievements include being recognized as an Ernst & Young Entrepreneur of the Year award winner and a two-time recipient of the Inc. 500 award, which celebrates the 500 fastest growing, private companies in the US. As founder of Lumen Legal, he is a frequent contributor to the ongoing dialogue of transformation in the legal services industry. His first book, *Unbound: How Entrepreneurship is Dramatically Transforming Legal Services Today*, has been sold throughout the US, Canada, UK, Australia, and Russia. His follow-up book, *Legal Visionaries: How to Make Their Innovations Work for You*, is helping organizations gain confidence to implement change in the rapidly evolving legal services industry.

David graduated with distinction from the University of Michigan Business School in 1990 and cum laude from Wayne State University Law School in 1993.

Wayne Hassay began private practice in 1991 as a civil litigator and is now the managing partner of Maguire Schneider Hassay, LLP, in Columbus, Ohio. He serves on the Board of Directors of the American Bar Association affiliated Group Legal Services Association for the 2019-2021 term. His law firm serves as a provider firm for the legal service plan, LegalShield.

As managing partner of MSH, his mission is to bring innovation and technology to the practice of law for the benefit of clients. The philosophy is to broaden access to justice by using technology in a way that

helps clients afford the legal services they need. Wayne believes this will achieve the best possible result for his clients, while making their experience as stress-free as possible.

Mary Juetten, the author of *Small Law Firm KPIs: How to Measure your Way to Greater Profits* and *The Business of Legal: The Data-Driven Law Practice*, plus founder and CEO of Traklight, has dedicated her more-than-30-year career to helping businesses achieve and protect their success. Specializing in leading companies in transition or start-up phases and helping them create sustainable, operational, and financial growth, Mary wants entrepreneurs and businesses to have Fortune 500 style software solutions. Using her extensive education including Bachelor of Commerce degree from McGill and a Juris Doctorate and Masters of Law from Arizona State, as well as her US and Canadian accounting and public accountant certifications, Mary created the only self-guided software platform that creates a custom intellectual property (IP) strategy plus assesses business risk. Traklight Pro is lead generation or triage for companies; business, start-up and venture, and IP attorneys; CPAs; and other professionals. Mary is an international author, blogger, speaker, and mentor. She previously represented entrepreneurs on the Board of the Crowdfunding Investment Regulatory Advocates and the Emerging Enterprise Committee of the Licensing Executives Society. In 2015 Mary co-founded Evolve Law, a sales and marketing channel for Traklight and spoke internationally on change and technology adoption in the legal industry before selling the company to Above the Law. Mary was named to the American Bar Association's Legal Resource Technology Center 2016 Women in Legal Tech list and the FastCase Class of 2016. She also served on the Group Legal Services Association (GLSA) Board and taught both Technology Law and Access to Justice through Technology at Arizona State.

David Kerr is a director of Moore Legal Technology – a digital marketing agency that specializes in helping law firms succeed online. David has been with MLT since 2012 following the completion of his law degree and several years working in sales. David helps Moore Legal Technologies clients to improve their sales processes, and to develop marketing strategies tailored to their customers' needs.

Patrick J. McKenna is an internationally recognized author, lecturer, strategist, and seasoned advisor to the leaders of premier law firms: having had the honor of working with at least one of the largest firms

in over a dozen different countries. A sparring partner and sounding board to firm leaders, McKenna helps by asking the right questions, confronting orthodoxies, unleashing the entrepreneurial spirit, building strategy alignment, and enhancing profitability.

He is the author of 11 books, most notably his international business best-seller, *First Among Equals*, currently in its sixth printing and translated into nine languages; with his most recent work entitled *Strategy Innovation: Getting To The Future First* (Legal Business World, 2019).

Patrick's decades of experience led to his being the subject of a Harvard Law School Case Study entitled *Innovations In Legal Consulting* (2011). Examples of that innovation include his being instrumental in working with the College of Law Practice Management back in 2004 to develop the annual InnovAction awards; wherein he participated in framing the award categories and criteria, and serving on the judging panel for the first three consecutive years. He is also known to have launched the first instructional program designed to specifically address the issues that new firm leaders of larger firms face in their First 100 Days – which graduated over 80 new leaders, many from AmLaw 100 and 200-sized law firms, as well as from notable accounting and consulting firms.

Patrick serves on the advisory boards of companies in the international media, legaltech, and healthcare industries. He is a contributing editor to *Of Counsel*, The Legal Practice and Management Report based in New York; writes a periodic column for Legal Executive Institute; and is the recipient of an “Honorary Fellowship” from Leaders Excellence of Harvard Square. Patrick was acknowledged by the readers of *Legal Business World* as an international Thought Leader (2017 – 2019) and by Thinkers360 as being among the “Top 50 Global Thought Leaders and Influencers on Innovation” (2019). Patrick may be reached at patrick@patrickmckenna.com.

Merry Neitlich is the managing partner of EM Consulting, a leader in legal innovative solutions for law firms and legal departments. She is a member of the LMA Hall of Fame and was inducted into the College of Law Practice Management. With over 25 years of experience, Merry provides attorneys and legal operations professionals with tools to enhance the efficiency and predictability of legal services.

Jerry Rosenthal is the author of *Small Doses: Common Sense to Common Practice*. His book is about the intersection of life, leadership, and process improvement. Jerry is a seasoned leader who loves to share stories and

experiences to learn how to do things better. Jerry has spent most of his career in pharma and healthcare doing business process improvement work with a focus on improving the customer experience (both internal and external).

For the last ten years, **Jon Whittle** has been working on the future of law firms, focusing on strategies and tactics that help firms build sustainable, competitive advantage. Working in a senior leadership role at LexisNexis he has introduced cutting edge market research and thought leadership and is a recognized authority on how law firms can build and grow. He is also the architect and author of the widely read *LexisNexis Bellwether Reports*, which now play an important role in shaping the strategic development of law firms. Previously, Jon worked for two decades delivering commercial growth, at board level, in some of the UK's largest media companies and he applies the fruits of this experience, successfully, to the world of law firm development.

Jon is particularly focused on helping law firms deliver commercial change with an emphasis on strategic development, successful project management, implementing new technologies, and evolving business operations. Jon is a specialist in building growth and value using market intelligence and customer insight. Jon is a regular speaker at legal conferences and seminars and is frequently asked to contribute thinking on the strategic future of legal markets.

Jason P. Williams has worked in financial services for over 20 years, most recently responsible for client onboarding and outreach of HSBC customers impacted by Brexit. Previous roles include European COO for the legal department at Deutsche Bank, where he introduced digital technology into the organization as well as set up major teams in Birmingham, Mumbai, Berlin and Jacksonville. Jason has been a pioneer in legal change, partnering with many law firms to innovate in the way legal services are delivered to clients.

Paul Williams is a partner at Shook, Hardy & Bacon and co-chair of Shook's general liability litigation practice group, based in Kansas City. He focuses his trial practice on complex litigation and trial practice management and partners with clients to create relationships that align client and firm interests to achieve better legal outcomes at exceptional value. Paul believes win-win partnerships with clients are built on collaboration, innovation, strategic action, and trust – all of which ultimately bring better results and the metrics to prove them. He has

received national recognition for his innovative use of alternative billing arrangements and the Coefficient® litigation management approach to curtail legal spend and effectively manage otherwise unpredictable litigation. Paul has been named as an Acritas Star, a Client Service All-Star by BTI Consulting, and as a Litigation Trailblazer by *National Law Journal* for his client-first focused relationships and his leadership in alternative fee arrangements.