

# Outsourcing in a Post-COVID World



## Market Overview: Disruption and Opportunity

The challenges of 2020 have permanently changed law firm operations.

When firms' offices closed their doors in early 2020, there was little indication of what the future held. The outcome, however, was a record-breaking year. Revenue for the Am Law 100 grew by 6.6% and 1.1% in the Am Law 200 respectively, and profits per equity partner were up 8.8% for the Am Law 200 and 13.4% for the Am Law 100.<sup>1</sup>

These numbers beat 2019 by a factor of 2.<sup>2</sup>

Everyone was surprised to a greater or lesser extent at how well working from home worked, and not surprised then that the vast majority of attorneys (76%) want to continue it (working from home), at

twice the rate of how many attorneys (37%) even considered it as an option prior to 2020.<sup>3</sup>

This profound change is impacting everything for law firms, from talent retention and recruitment to real estate reduction strategies, cost recovery strategy, to the entirety of firms' office and administrative services.

When it comes to talent, there is a tug of war being played out between clients who want their law firms' attorneys back in the office (see the Morgan Stanley letter)<sup>4</sup>, but some firms fear losing their attorneys to their competitors who may allow continued work from home benefits.<sup>5</sup> In any case, Cushman & Wakefield's Bright Insights 2021 shows 68% of firms reporting talent and recruitment as their #1 issue related to competition.

1. American Lawyer Am Law 100 Reporting 2. Ibid 3. Peer Monitor and Georgetown Law State of the Legal Industry Report 2021

4. <https://www.reuters.com/legal/government/morgan-stanleys-clo-wants-you-back-office-good-2021-07-19/> 5. <https://www.wsj.com/articles/covid-19-law-firm-work-from-home-11628254526>

It's becoming increasingly clear that the "hybrid" model will become the new permanent operational model, and the great news is that firms have an opportunity to reduce real estate and capture significant cost savings in the process. Real estate is the second highest expense for a law firm, representing approximately 6% – 8% of gross revenue for most firms, and reportedly firms will be able to save as much as half of that by renegotiating their leases. This is why we see hoteling concepts gaining traction with nearly half of all firms reporting at least 20% of their attorneys will utilize hoteling versus dedicated office space.<sup>6</sup>

It all adds up to an unprecedented opportunity to profoundly rethink operations, one where firms can significantly reduce costs and increase flexibility at the same time. This is the transformational impact of the COVID-19 pandemic, for firms to dig deep and focus on the core competency of the delivery of legal service. The shift in thinking as to where and how the practice

of law takes place has materialized and has resulted in a record-breaking year of profits—now the question is, what's next?

Taking the lessons of 2020 further, firms are increasingly looking to outsource non-legal practice areas to increase expertise while reducing costs and increasing flexibility. However, according to Altman Weil's 2020 Law Firms in Transition Survey, only 37.1% of firms report significant improvement when outsourcing to non-law firm vendors.

We are writing this white paper to help firms do outsourcing "right" under the new, prevailing market conditions of hybrid operations. When done right, outsourcing is an indispensable tool that helps firms increase expertise and flexibility while lowering costs. We've been helping firms do it right for 20 years – the following insights are what we have learned over the past two decades, plus the unprecedented past 18 months.

## Labor in a Post-COVID World

The COVID-19 pandemic disrupted the global labor market in both the short and long terms in scope and impact not seen since World War II. It can be argued that the effects from the pandemic were even more wide-ranging than World War II due to the dramatic increase in global interdependence in the last three decades.

The need for social distancing created by the coronavirus has impacted how and where we work for the foreseeable future, including the fact that remote work and virtual meetings are here to stay. While it is possible to develop relationships, exchange ideas, and present proposals in a remote environment, it does not replace all of the benefits of in-person relationship-building. Remote work and virtual meetings offer the ability for alternative paths to those functions we almost exclusively did in-person pre-pandemic.

Social distancing requirements also boosted the use of e-commerce in a way no one could have predicted, and this trend is here to stay as well.

In addition, the world will see a much more transient workforce. With geography no longer a barrier, firms will be able to recruit without borders. This brings great opportunity but also global competition for the same labor, potentially making it difficult for firms to retain labor.



6. Cushman & Wakefield Bright Insights 2021

## Why Outsource?

Before COVID, outsourcing had been on the rise for almost a decade. Growth of competition and clients' embrace of alternative providers have pushed firms toward making the delivery of legal services more efficient, more predictable, and more cost effective.<sup>7</sup>

Over the past decade or so, a number of firms have taken steps to address this changing market for law firm services, which include:

- Increased reliance on allied professionals and specialists
- Improved internal operating systems, such as timekeeping, billing and document management systems
- Expanded partnering and the outsourcing of back and middle office services
- Created “captive” subsidiaries for legal related services
- Expanded their use of technology to improve legal work processes

Even prior to COVID, firms had learned there were multiple benefits to be recognized in well-executed outsourcing relationships, including:

### 1. Cost reduction

Reducing operating expenses is a key benefit and driver of outsourcing labor services. Outsourced labor providers leverage their business models and scale to offer services at a lower overall cost than law firms can by hiring labor, onboarding, training, and providing ongoing performance evaluations to labor resources directly.

### 2. Flexibility

Utilizing outsourced labor services introduces the ability for firms to flex their labor resources as business needs dictate with no financial impact. A well-structured outsourced labor contract allows for flexibility at any time and without severance or other separation benefit costs. Additionally, outsourcing service providers can more quickly source, hire, and onboard labor resources when the need exists.

### 3. Expertise

The experience, expertise, and best practices that a service provider brings to the firm in an outsourcing engagement is a valuable benefit to outsourcing overall. Just as law firms bring the expertise of practicing law and advocating for their clients, service providers bring expertise in

operating mailrooms, copy/print centers, hospitality centers, records management, document processing, administrative services, reception services, etc. in law firm environments. Along with that expertise comes best practices that allow for a higher level of service focused on those key service areas.

### 4. Value, Continual Improvement and Efficiency

As outsourcing is done on a contract basis, service providers recognize their need to continually show value and continual improvement in service offerings and performance. Recognizing the competitive business aspect of the services they provide, service providers are motivated to show value, bring new ideas and processes to their offerings, and drive efficiency throughout services that support the attorney population.

Post-COVID, on-site labor will continue to be an integral part of day-to-day operations and so, for local, physical labor there will not be much of an impact because of coronavirus-related social distancing: organizations will still require a local presence for certain functions such as internal deliveries, reprographics, and hospitality. However, for higher-end, more sophisticated functions, the world is the marketplace.

The traditional core services provided by on-site labor teams, such as mailrooms, copy/print centers, hospitality, and reception will continue to be a component in the modified law firm approach to attorney support functions and administrative operations. However, how those functions are structured will undoubtedly evolve with the expanded injection of technology and the increase in the “functionalization” of these services.

Overall, there will be a fundamental shift in how outsourcing is perceived and implemented. It will no longer focus on the outsourcing of “labor” in every situation. Firms will - and have already begun to - outsource “functions,” which require a different approach to the process.

As an example, if a firm moves to a digital mailroom as many firms are exploring in a post-COVID world, does the labor that scans/processes that mail have to be at a firm location? No. Is the specific identity of the labor or number of individuals involved critical? No again. What is important is the successful completion of the function of delivering the mail digitally.

7. 2021 Georgetown Peer Monitor State of the Legal Market Report

## Technology

One of the hottest trends in legal outsourcing is technology solutions, fueled in large part by the pandemic and the realization by law firms that they needed alternative ways to complete tasks and access information. Many outsourcing service providers are offering technology solutions as a supplement and complement to their on-site labor solutions. These technology solutions fall into service areas that are like those that we see with traditional outsourced labor. Some of the most recent and relevant technology updates include:

### 1. Mail

As the pandemic took hold and law firms shuttered their doors in March 2020, there was an immediate, pressing need for an alternative solution to receiving, processing, and disseminating inbound mail to the appropriate end user. Digital mailroom (DMR) solutions became invaluable, and the benefits of those systems extend well beyond the immediate needs encountered last year.

DMR solutions allow for enhanced delivery, continued ease of access, reduced storage costs, and improved information governance (IG) compliance. Additionally, these solutions allow for secretaries', paralegals', and attorneys' time to be better utilized since they no longer must receive, open, and scan hard copy mail.



Client documents and other important materials received via mail are digitized, profiled, and made available in the firm's document management system (DMS) as part of one process. Profiling hard copy correspondence to the DMS promotes the vision many firms aim to achieve – a unified repository, that “single truth” for the electronic file. In addition to enhancing collaboration within the matter team, the DMS also allows for the application of ethical walls to restrict access to those without a need to know, a hallmark of many client-imposed IG requirements. Lastly, legal holds and disposition are significantly easier to manage within the DMS framework.

### 2. Reception

Law firms regard their receptionists as the face of the firm, given they are the first person a client or guest sees or speaks with when reaching out by telephone. Virtual reception solutions, which gained traction during the pandemic, address both the answering and directing of incoming calls as well as greeting and directing in the office. This technology offers firms the ability to provide visitors with the same live interaction they do with a traditional receptionist without requiring dedicated, in-person – and sometimes duplicative and expensive – labor resources. This can be accomplished in a variety of setups:

- Centralized Operators: live, centralized person (firm employee or third-party) to answer and direct all incoming calls for all firm offices.
- Automated Kiosk: touch screen interface offering visitors pertinent information such as firm directory, building policies, health questionnaire, parking information, and internal directions while providing for firm-employee notifications of visitor arrivals.
- Kiosk w/ Live Person via Voice: live, centralized person (firm employee or third-party) linked via a voice connection and a touch screen interface.
- Holograms: interactive, life-size, talking and moving hologram utilizing artificial intelligence and offering visitors pertinent information as the workforce remains distributed and physical proximity remains a concern, these types of solutions will become more and more prevalent.

### 3. Records Scanning

Mattern has found that many firms wish to be “paperless” or “paper light” and reduce their reliance on hard copy records. Law firms want to reduce their overall paper footprint by digitizing records wherever possible and refraining from sending new paper off-site in order to eventually get out of the off-site records business. One of the main driving factors propelling firms along this path in recent years is clients in highly regulated industries who are imposing their IG standards on all service providers, including their legal counsel. A few other benefits include:

- Avoiding off-site records storage quagmires (contracts that overwhelmingly favor the storage provider and perpetually increasing hostage fees)
- Cost avoidance
- Bringing law firms up to modern day records keeping standards and IG practices
- Improving access to information and collaboration amongst matter teams
- Improving and automating records disposition in a legally defensible manner

Technology solutions to support records scanning initiatives continue to evolve with a heavy emphasis placed on automation in profiling and indexing scanned documents. This automation allows for reduced manual profiling and faster, less labor-intensive records scanning undertakings.

The increased focus on technology solutions has brought about an increased focus on information security and IG. How a firm manages client information is of paramount concern to most risk management committees. Firms are

now willing to address the electronic management of information, alignment of user behavior with sanctioned use of firm systems, and recognition that defensible disposition of electronic records is as essential as safeguarding legacy physical assets.

Much of this need to move beyond policies that either only focus on paper records or fail to address information security is driven by existing and prospective clients who are increasingly prescribing the need for their information to be effectively governed beyond their own firewall.

This requires technology solutions that complement IG policies, a change in mindset to one of “electronic first” as outlined in policy documents and identification of the disparate data locations including e-mail, network share drives, cloud sharing applications, collaboration tools such as Teams and Zoom, and even personal smartphones and tablets used in business messaging.

This also involves the willingness to manage workflows in the name of increasing information visibility, applying necessary access control and data loss prevention to mitigate risk, and achieving policy compliance including purging of electronic information.



## Administrative Support

Since as far back as 2004, firms have been reducing secretary-to-attorney ratios, plateauing at an average of 4-5 attorneys to 1 secretary, with some outlier firms reporting success adopting a ratio near 8:1. The rapid adoption of technology and remote work models, however, have pushed firms to drill down even more on the cost and rationalization of the model itself and whether this model is how attorney support will be optimized into the future.

COVID accelerated change, not the least of which was attorneys’ willingness to adopt technology and, as a result, attorneys are more tech savvy today than ever before, more self-sufficient, and less reliant on

their secretaries and administrative support. Instead, they are seeking a different skill set such as more sophisticated graphic design for presentations and document conversion (those typically provided in document processing departments).

A few firms have made wholesale changes to their administrative support structure, with some creating “pods” or “teams.” Firms are recognizing that the delivery of administrative support services should be looked at holistically and incorporate not only direct attorney support, but paralegal, document/word processing, and even billing support.

As each firm is different, this approach may involve significant changes to working groups, day-to-day duties and responsibilities, the potential need to outsource select functions, and consideration of centralizing support functions for firms with multi-office locations. Addressing administrative support services helps to solve several different problems for firms:

- Increasing efficiencies by centralizing and distributing work based on operator skill set and available resources while utilizing experienced workflow coordinators to disseminate work based on these criteria
- Realigning administrative staff with current required skill sets and a firm's future direction and expectations

- Improving end user satisfaction firmwide through more skilled and available talent when needed
- Increasing attorney-to-secretary ratios
- Reducing expenses through centralization, compensation commensurate with required skill sets and available resources
- Realigning Office Services/Hospitality/Facilities/Records Management staff with current required skill sets and a firm's future direction and expectations
- Improving scalability through centralizing Office Services and Record Management resources to a more "Help Desk" style of remote service delivery and/or leveraging off-site resources to fulfill select tasks such as copy, print and imaging work

## How to Negotiate an Outsourcing Agreement to Achieve the Desired Results

Despite all the potential value when outsourcing, at the beginning of this white paper we cited the rather dismal statistic that only 37.1% of firms report significant improvement when outsourcing to non-law firm vendors, according to Altman Weil's 2020 Law Firms in Transition Survey.

So, the question is: how can firms structure their agreement to avoid being in that 62.9% that did not recognize a significant improvement in their outsourced operation?

One of the biggest factors we see in engagements that fail, or dissatisfaction with the outsourcing initiative, is whether there was a plan in place regardless of whether it was a renewal or the initial foray into outsourcing. Regardless of a firm's objectives - whether they are cost savings, improved efficiency, opportunity and/or need to offer additional services or relieve the firm's daily obligation of managing these departments - the key for outsourcing any operation is having a plan that addresses the immediate and near future needs of end users. This plan is critical to the success of an outsourcing engagement.

The plan should consider your current end users' needs, what possible needs they may have in the future, the workflow and technology to support these needs, and the required labor. Just as your attorneys do not ask a question in the courtroom without knowing the answer, you should know what your desired operation will cost before you send out the request for proposal (RFP). Here are our top 6 best practice considerations:



### 1. Know Your Costs, End Users, and Operation

On your side of the table, you should have the expertise to develop a projection/benchmark of your costs for each option the service providers will be proposing. The alternative is to go in blind to the process and assume the proposed pricing is accurate and in your firm's best interest. But is it? What are the different service providers paying their employees? What level of benefits do they offer? Are they using part-time employees or temporary labor? How about the equipment? Is there a mark-up on the equipment and the maintenance?

The best way to get a competitive deal is to know what you will be paying prior to receiving the proposal.

## 2. Create a Competitive Situation

Regardless of whether your firm is pleased with your current service provider, or are outsourcing for the first time, putting the service providers in a competitive situation will force them to optimize their pricing and the offered terms.

In addition, by creating a competitive situation your firm receives the expertise of multiple organizations instead of just one in reviewing your data and identifying possible efficiencies and workflow improvements.



## 3. The Right Contract Terms

Crafting the optimum contract with the right terms and conditions is paramount to a successful outsourcing operation. A whole white paper could be written on the contract terms that you want and don't want in your outsourcing contract. In summary, firms should avoid contract terms that will inhibit your organization from hiring the people who are managing or staffing your operation.

All outsourcing service providers would like to prohibit your firm, or a third party, from hiring these people, but the good ones know that it is not in their long-term, or their employees', best interest to prohibit this action. Other contract terms firms should avoid include assumption of equipment obligations unless clearly defined, and severance payments.

Some of the contract terms your firm will want to include in an outsourcing contract are cancellation for convenience without any cure period and also language in your agreement that allows right-sizing the labor and equipment without penalty at any time during the contract term.

## 4. Expertise – Hire It If You Don't Have It

It is always amazing to me when a client tells me an outsourcing service provider is trying to discourage them from hiring a consultant to assist them. What do they have to fear? If their pricing is competitive, the contract terms are fair, and they are doing a good job in the marketplace, what do they have to worry about? Even though most service providers won't admit it, the most successful outsourced operations are the ones where there is expertise on both sides of the table.

## 5. Ongoing Management

An outsourced operation must be managed just like any in-house operation but in a vastly different way. If you made the correct service provider choice, your day-to-day involvement should be minimal. You should be receiving monthly performance reports that don't just report data but provide an interpretation of that data and recommendations on how to make your operation more cost-effective and efficient.

We find most outsourced operations are over staffed and over equipped. Some firms are fine with that approach of building the church for Easter Sunday. Typically, we recommend a more moderate approach with flexibility to adjust headcount and equipment throughout the term. These adjustments should be recommended by your service provider at their own volition.

Yearly, or after any significant event, there should be a deep dive into your operation to determine if you are staffed and equipped appropriately and whether the end users' current needs are being met.

## 6. Consider COVID Lessons

COVID brought to the forefront a number of operational opportunities that have been simmering below the surface for years: the ability to work remotely and still remain productive, the diminishing role of administrative support required by younger attorneys, and the proper role of outsourcing office and administrative services.

The ability to work remotely and remain productive has been a boon to law firms this past year and will morph into a hybrid work environment for most. Obviously, the challenge is managing these remote functions and protecting the firm if you outsource it. Many of the contractual recommendations outlined above will improve protection for the firm, but the addition of a job-submission tool and subsequent reporting is a requirement not only to manage the daily flow of work but also to allow you to continually analyze and manage the function.

In conjunction with the hybrid work model, the pandemic also created the opportunity for firms to step back and analyze their office and administrative support. The findings for most firms signaled an overabundance of resources and an attorney pool of decreasing needs for these services. This has allowed firms to reconfigure their support functions, decrease the number of personnel and organize staff into a team or functional approach. It has also opened up the opportunity to outsource these functions which, if done correctly, can be beneficial both operationally and financially.

## Case Study Examples

It is important to point out that every firm is different, and that outsourcing is not always the right answer. The right answer is the result of an unbiased, rigorous process and where – if a consultant is involved – the consultant does not specifically gain from one outcome or another.

The value of the consultant is to bring industry-wide expertise and an in-depth knowledge to an area. The consultant leverages that expertise and experience, ensures the firm's chosen solution is implemented, and maximizes the success of the firm's business objective.

This proposition fails, however, if the consultant is also a provider of a potential solution that could be implemented. If the consultant stands to gain, bias inevitably filters in and diminishes the promise of value the consultant is engaged to bring to the firm. Bias can also seep in depending on how the consultant is paid. If the consultant is paid based on project savings, self-interest can steer recommendations to the lowest cost solution and taint the process.

That is why, even in an outsourcing white paper, our first case study example is from a firm we helped bring labor back in-house.

### Case Study 1

#### Helping an Am Law 100 Firm Bring Office Services Labor In-house

This firm with over 800 attorneys in 27 domestic offices had a long-term relationship with its outsourcing provider relationship which serviced the firm's equipment for all 27 offices and labor for three of the office locations – the firm's other 24 offices were staffed and managed in-house.

Leadership identified managerial inconsistencies, however, between the differing protocols of the outsourcing provider and the firm's in-house operations and sought to eliminate this through a firm-wide approach to the staffing portion of office services. In an unusual move, the firm's Chief Administrative Officer (CAO), sought to bring the outsourced labor in the 3 offices back in-house while preserving the relationship with the outsourcing provider and its equipment services – and do all of this cost-effectively and seamlessly.

After conferring with Mattern, the firm decided to move forward with bringing the outsourced office services labor in-house. The firm exercised the exit clause Mattern had built-in to the outsourcing agreement, terminating the labor portion of the contract and, with Mattern's guidance, successfully preserved the equipment portion of the relationship while Mattern's team:

- Oversaw the transition from outsourced labor to in-house labor
- Monitored transition timeline to assure all milestones were met (timely notifications for all employees not transitioning over)
- Reviewed and approved all proposed amendments to the contract

- Coordinated any necessary transition requirements
- Reviewed final labor invoices to ensure proper billing and/or credits

The firm posted the previously outsourced positions as in-house positions and proactively encouraged the outsourced staff to apply for the internal positions. Out of the outsourced staff from the provider, almost all applied and were hired into the firm, provided pay increases, enhanced benefits, subscribed into the firm's bonus program – and the firm is on track to achieve targeted savings.

*"Mattern was invaluable in this process. Many consulting firms are ultimately selling their clients in the process of the consultation: a product or service as the solution to the problem. There's bias built in. But that's not the case with Mattern.*

*They were completely unbiased in this, and they listened to the firm's objectives, analyzing our options with the same level of due diligence as if the engagement were going the other way to outsourcing"*

**Chief Administrative Officer, Am Law 100 Firm**

## Case Study 2

### New York Office of International Firm Takes In-House Operation to Outsource Operation

It is important to have this unbiased position when making key decisions for your firm such as whether to outsource. Our unbiased approach is why the New York office of an Am Law 25 firm with 1,100 lawyers selected Mattern to review its New York location's back and middle office services with an eye to modernize and improve the services to the end users either by improving the in-house operation or by outsourcing them. The firm wanted this process to be a test pilot in the event the firm wished to repeat it at other offices. If successful, the firm would use this process as a template. This time the focus was:

1. Transforming as many paper-based processes to digital.
2. Improving efficiencies for tracking and managing back-office services.
3. Bringing current team up to par with current industry best practices and standards.
4. Ensuring the most up to date technology was implemented.
5. If the firm elected to outsource, ensuring the process of bringing the in-house team to an outsourced provider was successful and replicable.

Mattern did a complete on-site assessment of the in-house labor, technology, and service offerings

*“The Mattern team has done an outstanding job – from the RFP process, contract, negotiations, and monitoring invoices and SLAs. All is going very smoothly. Mattern is an experienced business that understands the client's needs. Great job!”*

**Am Law 25 Firm Office Administrator**

at the New York office. This included a review of staffing levels, workflows, processes, and interviews with key stakeholders. Through this comprehensive review, Mattern was able to develop a picture of the New York location's entire operations and formulate recommendations for the firm's new Hudson Yards project.

Through the Mattern process, the firm was able to enter into a firm-friendly contract that guaranteed the firm and the on-site staff would receive the attention required while bringing the operations into the future with the new Hudson Yards location. Mattern was also retained to oversee the implementation of the project, as well as the on-going monitoring of the contract.



## Case Study 3

### Benchmarking Analysis Helps Orrick, Herrington & Sutcliffe LLP, Improve Outsourced Administrative Services Including Resource Center & Document and Word Processing Agreements

One last example is how we helped West Coast-based Orrick, Herrington & Sutcliffe LLP. Orrick had been in a long-term relationship with two vendors for outsourcing back office and administrative services including document processing services provided at its domestic offices.

One of the vendors provided services for most of the firm's offices, including traditional outsourced services (production, mail, hospitality, office services, supplies services, and reception), document and word processing, transcripts services, an administrative resource center (ARC), and multifunction devices (MFDs). The second vendor provided services at two of the firm's offices for traditional outsourced services and MFDs.

A review of the relationships revealed that the firm was overall pleased with the service performance. However, the firm felt it needed to address its overall financial and contractual situation to ensure terms and conditions were the most competitive on the market and in line with peer firms.

In addition to benchmarking contract competitiveness against the market, the firm desired to increase efficiencies, improve pricing and terms, refresh its MFD fleet, look at alternative pricing models, and find any gaps between current and best practices. Another of the firm's objectives was to review the MFD equipment. Thus, the focus of the Mattern process was to analyze the current situation and educate the firm on its findings and best practices.



Mattern performed a complete assessment of MFD equipment and traditional services at each of the firm's vendor-staffed offices – ten locations in all. In addition, Mattern did an on-site assessment of the firm's document and word processing, ARC, and transcripts services at the off-site location where those functions were housed. Mattern's review included a comprehensive review of the outsourcing vendor's MFDs, staffing levels, workflows, and processes at all locations.

Mattern interviewed firm and incumbent vendor staff to document all aspects of operations from execution to overall impressions regarding their success or lack of success. Based on this evaluation, and utilizing its industry knowledge, benchmarks, and long history with law firm operations, Mattern made several recommendations for the firm's consideration.

Mattern recommended staffing and operational improvements in each office to increase efficiency. Amongst the items that Mattern recommended for traditional services and equipment were possible headcount reductions equating to (25.4%) in overstaffed offices as well as process improvements such as improved hours of operation and right-sizing the MFD fleet.

For document and word processing, ARC and transcription services, Mattern noted that pivoting away from an hourly rate model for document processing to a fixed management fee could reduce the firm's costs by 29.5%. Mattern also recommended contractual improvements to bring the firm up to the standards of contemporary contracts as the current contracts were lacking in a few key areas.

*“Mattern’s benchmarking and analysis of our outsourcing contract was invaluable. Mattern’s work armed us with the necessary market information to be able to drive a much more competitive renewal and feel comfortable that the negotiations with our current vendor led to a good competitive outcome without needing to take this out to a full competitive bid process.”*

**Kevin Cash, Former Chief Financial Officer, Orrick, Herrington & Sutcliffe, LLP**

# Predictions/Way Forward for Outsourcing

As the practice of outsourcing, and the services being outsourced, continue to expand, it will be paramount that firms who elect to outsource do it “right” the first time and choose the best service provider to form a partnership. Here are some thoughts on what the future holds for the outsourcing marketplace.

## 1. The Battle Against Mediocrity

With so many firms outsourcing key office services and administrative functions, and in some cases, legal support functions, it will become more difficult for firms to switch providers if they do not initially choose a provider wisely. The providers, due to the nature of the services they are providing, will become so entrenched that any type of transition will be extremely disruptive to the operation despite how poorly the services are being performed.

Which means, unfortunately, that some firms may tolerate mediocrity.

A harbinger of this phenomenon is in the off-site records storage space. Many firms accept poor service, excessive rates and punishing contract terms because they don't want to switch providers due to the complexity of the transition.

## 2. Increased Competition for labor

Firms will be competing with service providers, and other businesses, for the same labor force which will drive up the cost of these services.

With 40% of high school grads migrating to clerical (office services type positions and other similar functions, and a declining US population growth rate, the available pool of candidates for support functions will decline.

One advantage that outsourcing providers bring to the table, is a more defined career path which some candidates might find attractive. They are also experienced in hiring this level of employee whereas a law firm is not typically targeting this type of employee.

## 3. Increase in Off-site Outsourcing and Offshoring

More and more services will be provided in an off-site (offshore), 3rd party facility that will host multiple law firms. This option, previously only used by larger firms, will become more mainstream and a realistic option for smaller firms, as pricing becomes more competitive.

## 4. Centers of Excellence will become a Managed Service

Firms who have established their own centers of excellence will eventually disengage themselves from operating these centers and will turn them over to service providers to manage.

During the past decade, several firms have established their own centers of excellence. With the pandemic and the acceptance of remote working and the improvement of workflow management tools such as BigHand, the need to centralize these services will decrease. Coupled with the increased competition for labor, firms will no longer need to physically house these support functions in one location. Tangent to this action, you will also see firms disengage from maintaining these centers and turn them over to 3rd parties to operate.

## 5. Reduction of Service Providers

There are currently over 20 regional, national and international service providers in the legal marketplace that can provide on-site and off-site administrative and back-office services.

As the services become more varied and complex, fewer and fewer providers will be able to maintain the capital investment necessary to compete on the domestic and global stage. This will lead to the contraction of the marketplace and an increase in pricing.

## 6. Increase in Consultants' Expertise

Firms will increasingly turn to consultants to bring the needed expertise.

As more firms turn to outsourcing for their back office and administrative functions, and the success of these initiatives is of paramount importance, coupled with the pain of a transition, firms will increase the reliance on the use of consultants to ensure the success of these initiatives.

Very similar to the practice of corporations turning to outside counsel instead of their internal legal departments for a “bet the farm” type of legal issue, the administrative management of firms will be doing the same.

## Conclusion

Law firms are at a crossroads, triggered by the transformational impact of the pandemic. Most firms are looking to reengineer the delivery of legal services and many are seeing outsourcing of administrative and office services as a tool that supports their new, strategic vision. The rise of alternative legal service providers as well as the emergence of Alternative Business Structures (such as in Arizona) portend a much more fluid business structure will be required.

Historically, outsourcing had a negative connotation because the term was closely related to a cutthroat approach of simply 'reducing headcount.' On top of this, even if the perception of outsourcing has improved

overtime, it is also clear that it is difficult to achieve a successful outcome as highlighted in the Altman Weil Law Firms in Transition Survey that states only 37.1% of outsourcing engagements result in a substantial improvement in non-lawyer services.

There is a way to do it right and our success rate at Mattern for significantly improving firms' outsourcing engagements is 100%. We have authored this detailed white paper to educate firms on the process and positioning that contributes to the successful outcome everyone is seeking and be part of that "37.1%" noted in the Altman Weil Survey that does experience significant improvement in their outsourcing engagements.

