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# MIM Reporter

THE REVIEW OF  
**MEDICAL INFORMATION MANAGEMENT**  
FOR LITIGATION

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## “If You Don’t Look Good, We Don’t Look Good”

Who would have guessed that the popular Vidal Sassoon tag line from the 1980’s would accurately describe the current relationship between legal vendors and law firms? Traditional relationships between vendors, law firms and corporate clients have drastically changed and evolved in recent years, so much so that the legal industry previously portrayed in television, movies and real life no longer exists. There remains one constant in the law firm-vendor relationship: when working for a law firm, a vendor’s purpose is to support the firm so that the firm “looks good” to corporate clients.

Outsourcing work to legal vendors is not a new concept. In fact, the 2012 “Law Firms In Transition” survey reveals that 45% of 2012 respondents believe that outsourcing legal work is a permanent trend, nearly quadruple the number of respondents who similarly responded in 2009.<sup>i</sup> The survey also reveals that 31.2% of respondents in firms, both firms under 250 lawyers and with 250 lawyers or more, outsource non-lawyer functions, and 6.5% of survey respondents anticipate that increased outsourcing will occur in the future.<sup>ii</sup>



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Similarly, *Corporate Counsel* magazine recently announced that it is conducting a Legal Process Outsourcing Survey in order to learn whether corporate law departments outsource legal work, and why or why not, in an attempt to gauge legal industry trends. *Corporate Counsel* defines “outsourcing” as “sending (i) legal work (e.g., legal research and writing, contract drafting, and electronic discovery) to (ii) a non-law firm entity (iii) within or outside the United States. [The magazine] also include[s] legal work outsourced by . . . outside law firm[s] on . . . behalf [of the corporation].” Results will be published in Fall 2013.<sup>iii</sup>



While law firms and corporations interested in forming a strategic partnership with a legal vendor certainly have plenty of options, several factors must be considered before forming the partnership. Specifically, in deciding to partner with a litigation management vendor, such as LMI, factors including scope of the litigation, tasks to be outsourced, collaboration style and experience of the vendor should be considered to ensure formation of a successful partnership.

## LET LAWYERS BE LAWYERS

There exists a misconception that law firms must compete for business with legal vendors. From the law firm’s perspective, partnering early in a project with a seasoned legal vendor can only strengthen corporate counsel’s opinion of the law firm since the legal vendor will support and enhance the litigation skills already supplied by the firm. Often the issue is not the amount of work but the cost of the work – law firms should not view using a vendor as a direct loss in firm revenue, but rather should embrace partnering with a vendor as a way to ultimately become more profitable by reducing costs.

“Up until relatively recently, law firms commonly viewed relationships with [legal vendors] as a ‘check box exercise’ so that they could respond in the affirmative, when quizzed by corporate clients, on whether they had a relationship with any

[vendors]. But this view seems to be changing, as a number of major firms have upped the ante by publicly announcing their [vendor] relationships . . . These firms are now also working closely with their chosen [vendors] to bring about truly innovative, groundbreaking change in how legal services are delivered. This embrace of [legal vendors] highlights the value that these firms believe [partnering with legal vendors] brings to the table.”<sup>iv</sup> In order for a vendor to make a law firm “look good,” a vendor needs sufficient information at the outset of an engagement to understand counsel’s legal strategy and vision for the litigation. Stated differently, the law firm-vendor partnership should be an investment in a client to make the client’s life easier, strengthening the overall client relationship.

Legal vendors focus on, and specialize in, process and technology, both of which are necessary to efficiently deliver results and allow for the vendor to in essence become a “back office extension” of the law firm. For example, legal vendors are often poised to capture litigation and project data as it occurs in order to strategically analyze trends over time. As this function is not a traditional capability of law firms or corporations, a law firm that is able to deliver this data to corporate counsel instantly becomes more valuable to corporate counsel. Arguably, law firms who most effectively use available resources like legal vendors experience repeat business from corporate counsel.

Realistically, there are numerous non-value added elements to handling a legal matter that do not need to be performed by a lawyer, but do need to be performed by a legal professional in order to achieve efficiencies – examples include, but are not limited to, record collection, document coding, record management, and medical analysis. Outsourcing to a legal vendor makes sense in these instances so that the lawyer may direct attention to matters requiring his or her legal expertise, such as managing risk and risk avoidance, and so that the client receives the most value for his or her legal spend. Unbundling tasks that do not require legal strategizing from tasks that do makes sense from a management perspective as doing so leaves time for attorneys to develop client relationships and focus on truly serving the client.

## CHOOSE WISELY

Law firms and lawyers are hired for their expertise; likewise, a legal vendor should be hired for its expertise. Legal vendors can provide counsel with creative, efficient solutions learned through handling a wide variety of litigations for both law firms and corporate counsel - patterns, repetitions, lessons learned, possibilities, and opportunities are all included in an experienced vendor's toolbox.

In support of a proactive relationship, the seasoned vendor should be able to leverage technology, manage and report on data, and supply knowledge gained from previous value-based relationships. The seasoned vendor likely has honed project management techniques to establish key project milestones in order to ensure work performed and agreed-to budgets are on track and in line with initial project projections. For example, LMI extracts and compiles litigation data that can be easily delivered to the law firm, allowing the firm to manage the project on its own, or oversee project management responsibilities handled directly by LMI.

*When selecting a vendor, take advantage of contacting any references offered by the vendor, and/or seek out peer recommendations. Above all, engage a vendor that is well-versed in a specific litigation type or desired function; the vendor should have experience plus a willingness to customize services to fit the matter at hand. A vendor who has ample resources and knowledge of how to use those resources is equally important.*

Law firms are often held accountable by corporate counsel for vendor performance – partnering with a quality service provider is in the law firm's best interest as doing so will also enhance the law firm's reputation for successful project management.

## WORK TOWARDS A MUTUAL GOAL

Corporate counsel often create litigation teams that marry the skills of a law firm with those of a seasoned legal vendor, with the goal of producing novel perspectives and efficient, practical ways to manage a litigation. For example, Merck & Co., Inc. engaged LMI to work with in-house counsel, outside counsel and other vendors to strategically align processes relative to the Vioxx litigation.<sup>v</sup> Merck presented LMI with its Outstanding Operational Award for being a flexible partner that provided the company with innovative, calculated solutions, ultimately resulting in long-term cost savings for Merck. As a result, LMI remains a strategic supplier member of Merck's Supplier Value Management Program, and has separately worked with outside counsel on additional projects.

Corporate counsel recognize that engaging the services of a legal vendor is about reducing costs, but achieving same is not necessarily accomplished by aligning with the cheapest

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service provider. Engaging a legal vendor offers a corporation numerous benefits that can be just as important as overall savings. For example, the ability to simply measure expenditure levels for the first time, or to gather usage metrics that were previously unavailable, can be crucial to a corporation's internal processes.<sup>vi</sup> Therefore, it is important that all stakeholders (corporate counsel, law firm and legal vendor) collaborate to assess issues, tasks and the overall situation at the outset of forming a relationship in order to determine the appropriate methodology to be used for the project.

The law firm and vendor must collaborate and work towards the shared goal of providing the best service possible to corporate counsel; doing so benefits both entities' reputation. Likewise, corporate counsel overseeing this partnership must frequently communicate the purpose of the partnership to both the law firm and vendor, as well as to internal, corporate stakeholders, to ensure that the partnership ultimately adds value to all parties' mutual client, the corporation.

## CONCLUSION

As the legal industry continues to evolve, those affected by its evolution may no longer subscribe to an "us versus them" mentality. Industry members cannot deny that the recent past

has experienced a dramatic increase in the use of litigation support vendors, and it is unlikely that this trend will subside: "These programs offer the promise of important financial and operational benefits to client organizations . . . to truly realize the benefits [of the vendor's work], [corporations] and law firms should adopt a continuing series of best practices" that can be modified as the litigation evolves.<sup>vii</sup>

Communication among all interested parties is the first step towards a successful and valuable collaboration. A dialogue that discusses successes and failures must occur between all interested parties; likewise, in order to maintain a thriving partnership, vendors need open and honest feedback from project participants and those who utilize the vendor's services. In the end, law firms should expect legal vendors to make them look good, just as corporate counsel expect the same of law firms.

## ENDNOTES

- i. Clay, Thomas and Eric Seeger. "Law Firms In Transition." Altman Weil, Inc. April 2012. <http://www.altmanweil.com/LFIT2012>.
- ii. *Id.*
- iii. "Participate in the Legal Process Outsourcing Survey." *Corporate Counsel*. July 18, 2013. August 12, 2013. [http://www.law.com/corporatecounsel/PubArticleCC.jsp?id=1202611442809&Participate\\_in\\_the\\_Legal\\_Process\\_Outsourcing\\_Survey#ixzz2bs9Or9Ct](http://www.law.com/corporatecounsel/PubArticleCC.jsp?id=1202611442809&Participate_in_the_Legal_Process_Outsourcing_Survey#ixzz2bs9Or9Ct)
- iv. Taylor-Hall, Janet. "Legal Process Outsourcing – A GC's Perspective." Integreon.com. June 20, 2012. December 4, 2012. <http://www.integreon.com/blog/2012/06/legal-process-outsourcing-a-gcs-perspective.html>.
- v. Merck Procurement selected LMI as one of 7 companies world-wide to receive the 2007 Operational Excellence Award. LMI was the only vendor of its category to be selected for such an award.
- vi. Smith, Taylor, et. al. "Getting to the Finish Line." *Litigation Management Magazine*. CLM. Summer 2013. Pages 44-46.
- vii. Smith, Taylor, et. al. "Getting to the Finish Line," *supra*.