

The Legal Profession Looks Back on 2010 and Ahead to 2011

Recently, we asked our friends and colleagues in the legal profession - lawyers, consultants, service providers, marketers - to jot down a thought or two, reflecting back on 2010 and ahead to the new year. As we said in our email request, JD Supra is a community-fueled enterprise, as good as the legal voices publishing their work on the site. In that spirit, we think the best type of "Year In Review" post, the kind we'd like to read, offers a diverse collection of insights and observations not from us but from members of the profession itself.

We asked two questions: 1. what surprised you in 2010? and 2. what should lawyers expect to see in the new year? And we said: "Feel free to hold forth on anything this audience would appreciate: law practice, legal marketing, tech issues, business development, and the myriad other concerns related to these big topics..."

Here is what we heard back:

Jordan Furlong:

What surprised me most in 2010 was the speed with which change in the legal marketplace accelerated. Coming into the year, lawyers knew or should have known that the days of their near-exclusive access to the marketplace were ending -- and in fairness, a number of lawyers and firms responded admirably in 2010, from adopting AFAs and managing processes to renewing their focus on their key clients and client markets. But the competition came on stronger than anticipated, from legal process outsourcing companies to contract and temporary attorneys to the year's biggest surprise, Thomson Reuters' acquisition of LPO Pangea3. Add in the ongoing pressures of the recession, and traditional law firms lost a lot of confidence and momentum this past year.

In 2011, lawyers should expect to see the arrival of some truly gigantic players in the marketplace. Thomson's rivals in the legal information and systems space won't stand still in the face of the Pangea3 acquisition, and their responses likely will hasten the consolidation of the LPO marketplace and other industries like publishing and e-discovery. Moreover, more global law firms will look to broaden their reach, either through transatlantic mergers like SNR Denton or via strategies like Norton Rose's moves into Australia, Canada and South Africa. On top of that, the

Alternative Business Structure provisions of the UK's groundbreaking Legal Services Act will come into force in October 2011, and while relatively few law firms will take advantage of those provisions to float shares or encourage direct investment, it isn't law firms we should be looking at. Watch for global service providers outside the legal sphere -- anything from department stores or investment banks to accounting firms or insurance companies or even Google or Amazon -- to assess the fragmented, overpriced, under-served nature of the legal marketplace and use these new provisions to acquire an LPO, a string of local or regional law firms, or an online provider like LegalZoom as an entry point. Truly global brands and massive economies of scale have been foreign to the legal marketplace until now, but there's a good chance that will change in 2011.

Jordan Furlong - Partner, Edge International; Senior Consultant, Stem Legal - <http://www.law21.ca/about-2/>

Donna Seyle:

Purchase of Pangea3 by a business other than a law firm. It shows that this upending of the law firm structure is really driving the legal services industry to think out-of-the-box, and the implications will be far-reaching as Thomson Reuters implements their concepts by integrating Pangea into their family of offerings.

Two things are happening in 2011 that will force the US to compete by developing a variety of legal services business models. The first is the UK's implementation of the Alternative Business Structures (ABS) section of the Legal Services Act (LSA), which authorizes non-lawyer partnering and/or private capital investment into law firms. The second is the increased attempts of US and European regulators to create a comprehensive regulatory framework to safeguard large-scale implementation of virtual platforms on which these new breeds of legal services can operate.

Donna Seyle, Founder/Coach - Law Practice Strategy - www.LawPracticeStrategy.com

Tim Baran:

The past year continued the trend of law firms and other legal organizations adapting to change. No small development since the profession is notoriously averse to change. The still stagnant economy played a significant role as new hires, especially among administrative staff remained a trickle, with most standing pat and some continuing to lay off.

One trend in 2010 that is obvious to those of us who engage on social media like LinkedIn and particularly Twitter and Facebook is proliferation of the legal profession on these platforms. Although the economy also plays a role here with many starting to recognize and appreciate its marketing potential, the openness that it has spawned is welcome. Like discussing the new Westlaw and Lexis enhancements and pricing models, the continued emergence of the freely available law.gov, meaningful conversations about the onerous CLE regulations and building relationships that was, in the past, mostly unattainable.

But, for entities that serve the legal profession, like legal research, marketing and continuing legal education services, I noticed another trend - a shift from being hired to perform those services to consulting and training existing staff to handle the same functions. I don't know how widespread this is but it's certainly been my experience with a few colleagues expressing similar sentiments. It's a significant shift and entrepreneurial ventures serving the profession will have to adapt.

Tim Baran - [BaranCLE](#) (New York City) - [Facebook Page](#) | [LinkedIn Group](#)

Lance Godard:

What surprised me? Plus ça change, plus c'est la même chose: In 2010 (like in 2009), conditions were ripe for meaningful change in the business of law, more than they have ever been (and probably ever will be again). But at the end of the year we're still talking about the same things -- in virtually the same exact terms -- as we were at the end of 2009. None of the seismic changes predicted at the end of last year (alternative billing, outsourcing, legal education reform, etc.) have made

much difference so far. Obviously, I did not expect a revolution in 2010, but I did think we'd see a lot more change than we actually experienced.

Predictions for the future? The wild card is legal process outsourcing (and insourcing). If it takes hold, and recent activity would certainly indicate that it is well on its way to doing that, it will give clients a real option for legal services. That additional option will likely translate into a noticeable shift away from using traditional firms for routine legal work, which will in turn force those firms to find innovative ways to keep that work on the new terms (as dictated by the clients) or get out of the routine work business completely.

Lance Godard - The Godard Group - <http://www.thegodardgroup.com>

Amanda Ellis:

I thought firms would focus on hiring laterals who were already admitted to practice in the hiring state. However, firms still hired out-of-state lawyers who were not yet licensed in the hiring state IF the lawyers had top academic credentials (in the examples I saw, this usually meant a JD from a Top 10-20 law school, not just a Tier 1 (top 50) law school).

- Big firms (AmLaw 100 and 200) will still "pass" on laid-off associates. Or, at a minimum, will not use recruiters to hire laid-off associates.
- Attorneys with 8 years of experience (or more) will need some portable business to lateral to another firm.
- More hiring opportunities at boutique and mid-sized/regional firms
- More big firms will move toward a merit-based compensation system
- More smaller firms will tie compensation to firm performance (i.e., lower base salary with multiple bonus payouts)

Amanda C. Ellis, Esq. - Amanda Ellis Legal Search - <http://www.6psbig3.com>

Jim Calloway:

Oddly, it was the iPad. Being an iPhone user, I figured it would be good, but this is a game changer in many ways and once again, Apple, is showing its competitors where they need to go. Many lawyers will still prefer their computers for heavy document preparation, but the ability to display documents almost full size, the amazing ease of use and the convenience of having e-mail, Internet access, e-books, music, games, periodicals, access to social networks and a host of other items literally in the palm of your hand will be a great influence on how we perceive technology. And in 2011, they will almost certainly add videoconferencing.

Continued pressure from corporate clients to have lower, more predictable attorney fees. Lawyers figuring out that to survive and prosper they have to be more efficient. I cannot say that it will happen, but what should happen is a significant reassessment of how law firms produce documents and how technology can streamline and speed up document creation while ensuring great client work product.

Jim Calloway - Director, Management Assistance Program, Oklahoma Bar Association (<http://jimcalloway.typepad.com/>)

Gina Rubel:

I still find it surprising that many law firms in the U.S. are either 1) blocking social media and/or 2) do not have social media policies in place. In the age of digital communications, it is important for law firms to understand how to harness the power of social media for networking, business development, public relations and marketing while still understanding the ethical and legal implications. Social media impacts the practice of law, legal matters and litigation at almost every level. From employment matters to communicating with witnesses, and discovery to juries, providing the proper rules and tools for lawyers will make their social media experiences more fruitful.

I predict that social media is going to continue to play a substantial role in how law firms conduct business. Law firms will more readily adopt social media policies for

their firms, will educate clients on how to use and not use social media, be more proactive in monitoring the use of social media by their staff and clients, and engage in the online dialogue that dramatically affects their marketing and public relations efforts.

Gina F. Rubel, Esq. - President/CEO, Furia Rubel Marketing and Public Relations
(www.FuriaRubel.com)

L. Russell Lawson:

What surprised me most was the American Bar Association weighing in late in the year with an effort to modify the Model Rules to potentially shut off the conversations in social media about legal issues. It seems to me that a well-informed universe of consumers of legal services can only improve the delivery and efficiency of the law and lubricate the scales of justice. Most of the prohibitions now in the Model Rules cover the style and substance of what transpires in social media, and, as they currently exist, presume too often that those who need legal work can be easily hoodwinked by unscrupulous professionals. Education, especially that which is easily consumed and broadly available in social media, would be a counteragent to this anxiety.

Lawyers can expect to see more consolidation in internet distribution channels for their information and reputation. There will be a shrinkage in the search engine universe and the content specific sites for legal identity (martindale.com, bestlawyers.com, jdsupra.com, etc.) will increase their features and options in pursuit of participation and profit. Online advertising will expand while print plummets as publications convert from the expense of ink on paper and in the mail to publishing online and on electronic readers, which will proliferate in 2011.

L. Russell Lawson - Marketing Director, Sands Anderson PC -
www.sandsanderson.com - <http://twitter.com/sociallawyers>

Daniel Schwartz:

What surprised me was how all consuming "social media" became in the employment law area. Nearly every speaking engagement I was invited to was about social media in one form or another. What also surprised me (but shouldn't have) is how attorneys who don't even use social media suddenly became "experts" too.

I think as firms and companies start implementing technology upgrades that they put off during the recession, we will see even greater use not only of social media, but other "app" like tools to improve communication, efficiency and productivity.

Daniel Schwartz, Connecticut Employment Law Blog - <http://www.ctemploymentlawblog.com/>

Elliot Alderman:

What surprised me, given the economy, was how well some smaller and mid-sized niche practices performed. There was a general thinning of the herd, and I think increasingly the model of the large multi-discipline behemoth is broken. Particularly in tight financial times, clients increasingly want fixed fee and value-added legal services, and it is difficult for large entities to support their infrastructure.

I think this is a trend that is going to continue. Larger companies will probably bring more work in-house and experienced specialty lawyers can provide cost-effective legal services, even to larger clients.

Elliott Alderman - www.thecontentlawyer.com - www.facebook.com/thecontentlawyer

Howard Sollins:

What surprised me was the degree to which there is a perception that TARP was a negative program when it saved large segments of the economy for far less of a cost than was anticipated.

Increasingly strong government enforcement in regulatory programs holding companies accountable for noncompliance.

*Howard L. Sollins, a principal in Ober|Kaler's Health Law Group -
<http://www.ober.com/attorneys/howard-sollins>*

Chris Hill:

The explosion of Social Media and the growth in solo practice. I think this was due to the contraction in 2009 at large firms and the continued growth in law school graduations. The younger lawyers plus the sudden realization of the power of the internet (coupled with in person contact) by attorneys who saw the marketing need led to the growth in online marketing through social media.

I believe there will be more lawyers in the "cloud" and the need for state bars to deal with this new paradigm in their ethics rules.

Christopher G. Hill, LEED AP - Construction Law Musings Blog

Stephen Seckler:

In 2010, I was surprised that attorney layoffs were as modest as they were at the most highly leveraged firms. While many firms managed to report small increases in profitability for the 2009 year, this was primarily accomplished through cost cutting. Without a dramatic increase in corporate activity in 2010, I had expected to see another round of associate layoffs. Instead, I am hearing that some firms are actually beginning to recruit some laterals.

In the New Year, lawyers should expect to hear more requests for fixed fee billing arrangements from their clients. Similarly, a growing number of firms will be looking for ways to become better project managers so that fixed fee billing does not negatively impact profitability. Firms will continue to resist the adoption of alternative fees, but the movement away from the billable hour will continue to be slow and steady. Firms will begin to invest significant money to increase their visibility on social media; but the real marketing successes will continue to come from in-person marketing.

Stephen Seckler - President, Seckler Legal Coaching, coaching lawyers on marketing and career issues since 1997 - www.seckler.com

Jayne Navarre:

What didn't surprise me was the uptick in the number of both large, medium, and small law firms moving from cool to lukewarm in the arena of social media. I saw a significant increase in requests for group social networking training for lawyers, particularly partners. Albeit most of that was outside of any integrated business planning, however, in most cases the training I conducted did help to alleviate the discomfort of the unknown, and is a great first step.

What did surprise me was the lack of law firm investment in training for staff; both in regards to responsible engagement and proactive presence. I hope to see more firms leveraging the contribution to be made by trained staff--who are already networking anyway. I believe it is a missed opportunity. That being said, without social media leadership, planning, and structure that supports the firm's strategic plan, there's really no road map and that may be why few are venturing into such leverage.

In 2011 we should begin to see more strategic alignment and integration of new media opportunities in both the law firm strategic plan and the marketing plan. I believe that smart law firms will begin to recognize that social media is not a stand alone program, but rather, social media tactics can be used to meet traditional business metrics. Looking even further ahead to 2012, law firms will begin to take

advantage of client facing social media tools such as white label and private social networks that go beyond connections and conversations to become productivity tools that put faces and places on teams and projects.

Jayne Navarre, Author, social.lawyers: Transforming Business Development, 2010 ed., West Publishing, blogger at www.virtualmarketingofficer.com, and experienced speaker, trainer and law firm marketing consultant on new media.

Lindsay Griffiths:

The thing that surprised me most about 2010 was the level of fear that people still have surrounding social media. I've heard reactions that run the gamut, from "How can I block my employees from using social media" (within the last month) to "I don't think it's important for law firms." And yet, lawyers ARE using it successfully and getting business and recognition through the tools.

Even though I'm a legal marketer, I see lawyers stepping away from traditional firm "marketing" in favor of more individual business development activities. Although firm marketing will always be needed to offer a cohesive image in the industry, I think lawyers will be examining what activities best suit their practices and personalities and engaging with those. For a large percentage, I think this will include social media - with a better understanding that the tools are best used for relationship development and are just a means of facilitating what lawyers have always done.

Lindsay Griffiths, Director of Network Development for the International Lawyers Network (<http://www.zenlegalnetworking.com>)

Laura Gutierrez:

How great the content is coming from lawyers (how non-legal it reads), and how many of them have taken to social media.

Content will be king, and readers will probably scrutinize lawyer content a lot more. Since there is so much noise, readers will figure out a way to manage it all, including weeding out "frauds" (ones who claimed to be well-versed but aren't). I also see a lot more social platforms combining services or collaborating for a more comprehensive social picture.

Laura Gutierrez, in-house legal marketer in Twin Cities, @lalaland999

Venkat Balasubramani:

I spent an inordinate amount of time on Twitter. It's a really fun medium/app, but it has the potential to suck you in. I don't make new year's resolutions, but if I did, regulating my Twitter activity would be one to consider. Overall, it seemed like this was the year in which the legal profession embraced Twitter with much enthusiasm. A large percentage of these people probably viewed Twitter as purely a business development tool, and I expect many of them will drop off, if they haven't already done so. But the larger point may be that lawyers are not so afraid of social media as they are made out to be.

I think the big picture tectonic changes in the legal profession will continue, but it's anyone's guess as to what all this really means and how this will affect the average practitioner. I'm sure we will see some innovative marketing campaigns from lawyers and law firms that effectively make use of social media and the internet generally.

Venkat Balasubramani - <http://www.balasubramani.com/profile.html>

Steve Matthews:

The biggest surprise for me in 2010 was the rapid adoption and impact of tablet computing. Apple iPads have moved from testing ground status, to the anticipated production of 6 million units per month in 2011!

Finding viable web marketing exposure isn't going to be easy in 2011. The noise-to-

signal ratio online rose significantly in 2010, and that competition to be heard will only become more troubling in the coming year. What does it look like? Create a Twitter account and follow a bunch of law firms to see -- everyone is talking, but a rare few are listening. Cutting through the noise in 2011 will take a re-focused commitment to developing personal connections, and in many cases retracting one's social circle. It won't be a volume proposition. I expect many lawyers and firms to rethink their follow lists and concentrate on fewer relationships; in many cases, mimicking their off-line businesses. Successful firm brands online will recognize what they do best, and then replicate that vision with remarkable consistency.

*Steve Matthews - founder and principal, Stem Legal -
<http://www.stemlegal.com/steve-matthews/>*

Stephen Fairley:

What surprised me most in 2010 was the fast growing adoption of social media. In general, attorneys tend to be way behind the curve when adopting any new technology, especially when it relates to internet marketing. So it surprised me that attorneys seem to be adopting social media much faster than I anticipated.

Here's some of the evidence I have seen:

- a. The most frequently requested topic I have had this year from state and local bar associations is on how attorneys can use social media to generate leads and referrals.
- b. I'm receiving dozens of requests every week from attorneys who want me to friend them on Facebook, "like" their fan page or follow them on Twitter. What started as a trickle last year has turned into a consistent stream, but not a flood—yet.
- c. We develop and run full blown social media programs for law firms and it is one of the biggest growth areas we have seen in our company.

A growing emphasis on lead conversion and measuring Return On Investment. Attorneys are notorious for spending a lot of money of any crazy advertising

program the yellow pages can dream up, yet very few attorneys invest any time or effort in tracking the results. But I'm glad to report that is slowly changing.

More and more attorneys are realizing they can no longer afford to simply throw money at the wall and hope that something sticks. They need to be wise about where to invest their limited marketing dollars. I believe a growing number of attorneys will demand more accountability from their marketing dollars. They need to implement systems that allow them to track and measure the results from every lead source and here at The Rainmaker Institute we are working hard to create an automated system that will allow them to do this.

Stephen Fairley - CEO, The Rainmaker Institute - www.TheRainmakerInstitute.com

Lane Powell PC:

We at Lane Powell are bullish on 2011. We believe strongly that credit will start to flow again in 2011 and that will push growth in a number of sectors, which will help the employment numbers even in our local economy. Indeed, at Lane Powell our own strategic planning is based on confidence in the economy. For example, we are adding at least 18 more attorneys on January 1 so we can better meet our clients' needs in the coming year. We see particular growth in the financial services sector as the healthier institutions acquire those at risk. Litigation will remain strong as economic conditions make settlement of commercial disputes more challenging. Estate planning will see a flurry of activity for the very wealthy because the changes to tax laws will require reconsideration of prior planning techniques. M&A is certain to pick up as the pent up demand by private equity players begins to flow. Traditional real estate will remain challenged until the unemployment numbers drop, but in the interim some specialty areas of real estate are already seeing significant up ticks of activity. If the level of work in our Antitrust group is a guide, there will be a great deal of work for lawyers in connection with global compliance initiatives and investigations.

Sustainability/Clean Tech practices remain in everyone's sight, but actual investment remains somewhat tentative and dependent on governmental incentives. In the wake of previous events and the resulting new and future regulation of key industries, a lawyer's role as counselor and advisor will become

even more critical to businesses as everyone navigates an increasingly regulated and complicated business environment.

*Lewis M. Horowitz - President, Lane Powell PC -
<http://www.jdsupra.com/profile/LanePowell/>*

Marc S. Stern:

The Supreme Court decisions on Consumer Bankruptcy were surprising. The court seems to be retreating from its literal interpretation of statutes. I suppose that is necessary given the unintelligible drafting. I was also surprised that Congress got its act together and passed a bunch of much needed legislation in the lame duck session.

The unemployment rate will change only marginally. The economy MAY improve a little and the housing crisis will get straightened out late in the year. The solution will cause a great deal of pain and there will be no clear winners. There will be all sorts of losers. It will take Congressional action. Housing prices will bottom out but will not start to come back. There is too much inventory and little or no financing available.

Marc S. Stern - <http://www.jdsupra.com/profile/MarcStern/>

Larry Bodine:

I was surprised how wrong the predictions were for an economic recovery in the legal profession in 2010. Instead we got the dismal "new normal" with layoffs, indebted law grads without jobs, cost-cutting, and gloomy expectations from managing partners. The National Bureau of Economic Research said the recession ended in June 2009, but nobody believed it. The only lawyers doing well were handling foreclosures, divorces and bankruptcies.

For 2011, economists (see <http://bit.ly/i9usFB>) predict more competition, pressure

on fees, fewer partner-track associates positions, more non-equity service partners, fewer salaried and more temp positions, and more legal work outsourced overseas.

On the bright side:

- M&A activity is expected to jump 36% in 2011 (see <http://aol.it/dcYS4M>)
- Demand for legal services will also increase in healthcare, intellectual property, bankruptcy, corporate and security litigation, antitrust law, and environmental law (see <http://bit.ly/gakp3z>)
- CRM (client relationship management systems) will have to incorporate LinkedIn, Twitter and Facebook information.
- Law firms will realize they can't cost-cut their way to profit, and will seriously start training lawyers to do business development to increase the financial top line.
- "Innovate or die" will be the watchword for law firms, and they will offer new ways to offer new business services and value billing.
- Law firms will stop upgrading software and use SaaS offerings and cloud computing.
- Lawyers and paralegals with at least four years experience will be needed at midsize law firms, see <http://bit.ly/hiyvyn>. Law firms are looking for workers that will bring clients with them.

Larry Bodine, Esq. - Business Development Advisor -
<http://www.jdsupra.com/profile/larrybodine/>

Garry Wise:

2010 – No Surprises, Just Evolution

There were no great surprises in 2010 for lawyers who've had their fingers on the pulse of the social media world - just a natural progression.

The once-radical thought that there is a bona fide professional use for social media in the legal profession has been mainstreamed and normalized. Lawyers'

participation online has exploded into an ever-increasing offering of blawgs, tweets, and social media updates. In fact, as I suggested in an October 2010 post, [Social Media and the Legal Profession: Where are We Today?](#), the primary challenge ahead is no longer about participation; rather, it's about integrating our multi-platformed online presentations:

Once you have a website and blog, are on Facebook, LinkedIn, Twitter, YouTube, Digg, etc., how do you tie it all together - with the least amount of extra hands-on effort - into a cohesive, seamless and consistent presence that establishes a brand or identity that is both authentic and digestible for readers?

In a natural, logical evolution, the modern world continues to pull lawyers and our courts into this tech-centric 21st century.

Within the last year or so, courts in [Canada](#), the [UK](#), [Australia](#) and the [USA](#) have permitted journalists to live blog, text-message and tweet from the courtrooms. Canada's Supreme Court has recognized that [bloggers are afforded "responsible journalism" free-speech protections](#); similarly, bloggers have been held accountable for [defamatory publications that have crossed the line](#). In [some cases](#), courts have authorized [service of legal documents via Facebook](#). Facebook, itself, has responded to document-retention and electronic discovery requirements by introducing a [Download Your Information](#) feature, enabling retrieval and local storage of each user's Facebook content. Privacy advocates won a series of public battles over [the protection of private information on social media sites](#). Courts have ordered ["virtual child visitation"](#) via Skype. And, in Ohio, [judges received a green light to "friend" lawyers](#) on social media sites. In South Carolina, Florida and other jurisdictions, [it is not so clear](#).

Looking ahead, this evolution will no doubt continue in 2011.

In the legal profession, greater attention will be focused on the ethical do's and don't of lawyers' social media participation. We will consider whether blawging should count toward lawyers' mandated CLE requirements. And our courts and governments will struggle with (and attempt to draw defined lines in the sand) in this brave new world of instant communications, democratized access to publication tools, and blurred distinctions between the public and the private.

And the emerging WikiLeaks debate – is it journalism or espionage? - is likely to be

the spark at the center of a crucial, dramatic discussion ahead that will do much to define where we, as a society are heading, online and offline.

It will continue to be fascinating to watch the developments unravel in real time.

Garry J. Wise - [Wise Law Blog, Toronto](#)

Gwynne Monahan:

- Thanks, in part, to Facebook, privacy became a mainstream topic of discussion and concern.
- Social media made its entrance into the legal industry beyond a marketing channel. Won't be long before it is a standard aspect of eDiscovery. Request documents & social media history.
- Greater interest in open source applications among lawyers. Expect that to continue as those who have been using open source in their practices share more of their tips & tricks.
- The cloud will transition more towards an operating system & less like an app, making devices less important but Web-based applications more so.
- The cloud will also continue to mature, making privacy, confidentiality and such closer to being standardized and less polarizing and scary. Benefits will continue to be realized, understood & appreciated.

Gwynne Monahan - <http://www.jdsupra.com/profile/gwynnemonahan/>

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