



The Impact of COVID-19

on the Future of Legal Services Delivery

By Nancey Watson, President of NL Watson Consulting Inc.

I would like to present a 360° perspective on the delivery of legal services and the impact of COVID now and in the future from in-house counsel, legal operations, law firms, and my observations working with both parties.

Before COVID became a household word I saw an increase in the request for information about technological capabilities in corporate Request for Proposals (RFPs) particularly for large firms. Most RFPs had a detailed section on technology but mostly focused on cost savings and not as a communications tool. Previously “virtual meetings” were just a bullet point under “client communications”. Now IT is a full-blown section in an RFP. Due to COVID the surge of technology needs left firms reeling with huge, unexpected costs to improve their client service delivery methods.

Both law firms and their clients needed critical upgrades overnight. Many firms were caught off guard and had



massive challenges to adapt and deliver any service. Firms were forced to rapidly adopt remote and virtual service technology.

Medium-sized and smaller firms were lagging behind in technology. Updates to methods of communication and technology moved slowly. IT was primarily used to connect with clients via web portals. Many firms were unprepared, and budgets needed to be adjusted immediately. IT staff were under the gun and often lacked the expertise to bring firms up to speed overnight. Technology consultants had more work than they could handle.

I think a big part of how the market has adjusted has had to do with technology. Technology tools and various software applications, like DocuSign, Virtual deal rooms, web forums like Zoom, MS Teams, all have transformed how clients deal with firms now and likely post COVID.

Clients, and most firms, have come to realize that technology and digitization is making processes more efficient and expedient. We are all more connected than ever before. Many lawyers who have been working from home are surprised how much more productive they have been working away from the office. One lawyer said how liberated she has felt since she has reclaimed the two hours of her commute time and despite some distractions at home, the lower stress level (minus of course COVID) has been welcome.

Trends in Service Delivery Models and Client Relationships

Along with technology, upgraded security has been a growing concern within the legal com-

munity. It was not taken as seriously pre-COVID as it is today. With employees and client working from home it has become a tipping point for many clients.

RFPs now have lengthy sections about how they want to work with law firms during COVID. Expectations are much higher for personal attention, and there are more questions about strategy for example: mapping out a scenario on how a firm would approach a particular issue are becoming more common.

Communication, delivery of information and how transactions are being managed have moved many away from the paper world as we have had to learn to adopt to digitization and automation in a very short period of time. Firms are having to accommodate their client's business needs, so that if a client is going paperless, the firm will have to accommodate part of their practice to comply with a client's requirements. Whether we want to or not, we are all having to take a big step into the digitized world.

Going forward, the digitization of documents, e-signatures, automation around servicing clients will become entrenched with many clients and consequently their expectations will be passed onto their service providers.

I think it will be hard for the legal marketplace to go back to their old ways as corporate clients will increasingly push to move into the digital world because of market demands from their customer base.

I think that many legal departments in the corporate world will be looking to continue

this trend (post COVID) as they continue to review many of their traditional business operations and procedures with a view to optimize and make processes more efficient and effective.

From a corporate client's perspective, I am hearing of law firms increasingly looking inwards to transform their business procedures with a view to making themselves more efficient and effective.

COVID has been a catalyst for increased 'belt tightening' as we are all moving through a very uncertain economic period over the next 12 months. As clients look to create cost savings and contain costs, this may impact revenues streams for some firms. Consequently, firms will need to do everything they can to mitigate against lower revenue.

Some law firm CFOs have said that they are looking at their marketing budgets, resources, outsourcing arrangements and other (non-traditional) practice areas to either improve margins or bolster revenue. The immediate uncertainty of COVID forced many law firms to downsize staff and forced law firms to find immediate efficiencies – as legal services demand in certain practice areas remained high and, due to COVID, other services such as litigation, recovery, commercial restructuring, and insolvency, even higher.

And, as most firms look to their receivables as their principal source for generating profits, this area may be especially challenging for a firm if it is looking to increase its hourly rates given an economically challenged environment brought on by the pandemic. What may

impact more firms over the next 12 months is an increase in corporate clients utilizing competitive bids as clients look to source large, backlogged volumes of transactional work to newer service providers at more competitive rates.

There is of an increase in competitive bids amongst some industries with some clients wanting to take advantage of COVID to negotiate better pricing arrangements. Cost estimates are being asked for more often – a well thought out mutually acceptable cost estimate can mitigate missteps that may occur in many relationships. Some companies are starting to utilize cost estimates as quick competitive bids like a “mini pricing RFP” when they are looking to hire a firm for a particular matter. I have seen in-house counsel send a cost estimate template to multiple firms to solicit bids. In those instances, its usually only about price and wanting to “understand the math” that went into the quote.

Post-COVID

Once the bar has been raised clients will expect great strategic advice and proactive communication. They will not give it up. If they don't continue to get it, they will switch to the firms and lawyers who provide it. The good news is, they will become more reliant on good strategic advice from great lawyers. And will likely continue to ask for more crisis-type assistance – and they won't resent paying for that kind of advice.

One of the biggest areas I work on with my clients is pricing. Not to belabor the point, but once again cost estimates are getting more important because they allow everyone to be

more transparent. Clients want to see the methodology behind the pricing proposals that firms put forward. This is becoming increasingly more important given the increased competitiveness because of COVID. Clients, now more than ever before, are under increasing pressure to control their costs. They want to have a higher level of assurance that the pricing they get from a firm – whether it's in a cost estimate proposal – or a formal RFP – that the proposal is based on real data and not a gut feeling.

In terms of winning more work from existing clients or winning new clients, firms should be prepared to provide their clients with an assurance of their stability, commitment to information security practices, willingness to adopt to new technology and business practices, commitment to support a client's operational requirements and service level expectations.

If they participate in a competitive bid process, or are approached in a pricing negotiation, I think it's important for a firm to illustrate how they can assist a client well beyond its pricing arrangement. Value added services have become increasingly important to clients who are looking to establish long historical partnerships with firms who can add to a relationship and not only focused on the price/revenue component.

Provided that many of us will be working from home for some time to come, I think we will see an increased focus on information security. It will become table stakes for many corporate clients. They will not be very tolerant if mistakes are made or if a firm is sub-optimally

prepared. Firms will be expected to make greater investments in this area as we move through COVID and beyond.

How has COVID Impacted Competitiveness in the Legal Marketplace?

Pricing is still a high priority for corporations. So, my advice to law firms would be get the data correct, have it supported by historical information. Be sure you pay attention to how you deliver your services and, as always, ensure the highest quality of service. Legal departments are looking at pricing templates to be able to compare apples-to-apples when it comes to comparing pricing of matters and for transparency. Alternative Fee Arrangements (AFAs) will increase particularly as firms are offering AFAs more frequently now than before.

I keep my ear to the ground and have heard from reverse auction software providers that more companies are looking for reverse auction capabilities. Procurement professionals who would have scoffed at reverse auctions a year ago are now taking a second look due to COVID. The marketplace is ripe for reverse auctions. I recommend that law firms get prepared.

COVID has forced new processes for law firms and has forced open a new front for legal competition. Law firms can find advantage in costing/service delivery and springboard from crisis to expand legal work. The pandemic has not substantially impacted demand for all legal services however, as economic stimulus measures subside or if there are more COVID-related shutdowns or slowdowns due to more waves and variants, we can anticipate

shrinking legal demand as some clients fail or shrink in size.

Highly transactional and commoditized work may see some pricing pressure from larger institutional clients who may want to nail down pricing for a longer term beyond 12 months as we ride through the pandemic. Firms should look at creative ways to approach pricing if they want to differentiate themselves from others and stay competitive. Corporate clients are implementing moratoriums on pricing and % rate increases.

Technology has enabled many firms to handle a large influx of highly transactional matters at a lower cost. Firms must be prepared to negotiate and demonstrate value outside of hourly rates, value added servicing and adoption of technology. There is a focus on pricing during RFPs and cost estimate proposals. Firms need to get it right and understand their clients. Convergence strategies are also being deployed, paring down panels.

I have heard from law firm CFOs that they are treading very cautiously on this topic with their clients. I think every client is different and any decision depends on where the client and law firm are on their partnering journey and what is considered fair and reasonable, given the circumstances we are all in.

If a firm is participating in a competitive bid process, I think they should seriously review their economic position and not feel compelled to race to the basement on low rates just for the sake of winning a bid. Many times, firms shoot themselves in the foot after they begin an engagement and realize that their

pricing arrangement is not economically viable for the firm and may not be sustainable.

On the topic of pricing, I think a lot depends on the type of relationship a client has with its law firms. In some areas, such as transactional commoditized work, there may be opportunities to revisit rates, but in other areas clients may feel a need to stay where they are. Regardless of the strategy I believe on highly complex matters where senior professionals are typically involved will be in more demand.

In the middle of these difficult times, there is opportunity. Whether we go through several waves or variants, both firms and clients have to adapt to change.

We have proven that we are all capable of adjusting and moving to a virtual world. We must plan for a marketplace that permanently embraces that new virtual world and what it means to a firm's service delivery model. Clients will demand efficiencies and will continue to have high expectations. What we have gone through and continue to go through is not the flavor of the month, but something that is transforming the delivery of services well on into the future.

About the Author

Nancey Watson, is President of NL Watson Consulting Inc., and consults with in-house counsel on developing request for proposals (RFPs). She also works with law firms on proposal strategies and has helped professional services firms win more than \$3 billion in

competitive bids. She specializes in alternative fee arrangements (AFAs) and pricing for in-house and external legal counsel.

Nancey is well-informed in the area of legal procurement and proposal strategy and is the author the book, “The Silver Bullet: How RFPs are Won,” published by The Ark Group. She is

a contributing author and has participated in podcasts for Thomson Reuters Legal Executive Institute in addition to speaking at many legal events and forums.

She is an accredited presenter for Continuing Professional Education courses.

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