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Outsourcing and offshoring legal work are catching on in Canada

By Barbara Balfour
Calgary

Dashing from one hearing to another, Marsha Lindsay was working against the clock in juggling her duties as the in-house counsel for Purolator Inc.

The litigator needed to research case law to support a just cause termination case she was working on, but didn't have the time. So she turned to Legalwise, Canada's first offshore legal outsourcing firm, whose team of lawyers in India researched the cases for her while she slept. By the time she logged on to her e-mail the next morning, she had received all the cases she needed.

"Unlike lawyers in a law firm who have access to law students and library assistance, in-house counsel has to do their own research and prepare their own cases," says Lindsay.

"I was going through a period where I had a lot of hearings and it was hard to get my research done. So I asked my colleagues if we could try them out. At first we were skeptical.

Lawyers in India — will they really be able to understand what we need?"

But after speaking to Gavin Birer, a corporate lawyer who founded Legalwise in 2007 to serve Canadian law firms and in-house counsel, her concerns were eased. "I definitely liked the turnaround time," she says. "And having to take the time to explain what you are looking for and give the appropriate background is no different that what I would have had to do with a law student. At the same time, there is a cost savings

for sure — at \$50 per hour, you can't get a law student for that.

"Plus you don't have to pay those overhead costs like the salary and benefits of a full time staff

Canada indicated 15 per cent are outsourcing legal work.

Nineteen per cent of lawyers surveyed said they expected the volumes of work outsourced would increase in the next three years. Of the projects typically outsourced, research was the most common at 32 per cent, while electronic discovery and mergers and acquisitions were

least common at nine per cent.

"There's been an increase in the workload in-house but not a proportionate increase in legal budgets, so the pressure is on firms to keep costs low," says Jon Veale, division director at Robert Half in Toronto.

"Some environments require the work to be done in-house as

much as possible, so some firms have brought in contract or project lawyers or hired specialized expertise to decrease their reliance on outside counsel."

Some of the work that is being outsourced is sent to highly qualified talent in other countries at a fraction of what it would cost back home. While offshore outsourcing has been going on for years in larger legal markets in the U.S. and Europe, Canadian lawyers are just now starting to pick up on this cautiously emerging trend.

"Most companies have by now at least heard about this phenomenon and are at least interested in pursuing a discussion about it," says Birer, whose company is headquartered in Toronto and provides offshore services in Mumbai. "The response is very

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member."

As the global market expands, so too does the workload of legal firms, forcing companies to become more open to alternative ways of staffing. In the "Managing a Global Workforce" report published by Robert Half Legal, a survey of 150 lawyers among the largest firms in the U.S. and



Gavin Birer



Neena Gupta

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Outsourcing agreements must address privacy issues

OUTSOURCING

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good — but also cautious. In the U.S., these types of services have been provided with increasing success over the past six or seven years.”

Birer says the market for legal services is only increasing as companies are operating across borders.

He points out that many routine tasks such as research or document drafting and review do not require knowledge of the local area or spe-

cialized expertise, and lawyers from India who work on these tasks operate on the same common law system.

“The offshore legal service model is a powerful tool that local lawyers can use to better serve their clients,” says Birer. “The Canadian legal market is much more conservative, but stay tuned — this is not something that is going away. We expect this to continue to grow.”

However, there remain several issues lawyers must first address in order to outsource, including

federal privacy laws, provincial rules of professional conduct, and client confidentiality.

Neena Gupta, a partner at Gowling Lafleur Henderson LLP as well as the chair of the firm’s India practice group says the firm is not yet outsourcing abroad though they have been pitched for it a number of times. Part of the reason is that the cost savings of doing so would only apply to firms with high transactional volumes, she argues.

“With the outsourcing model, the profitability is predicated on

the volume of work that comes in and for there to be a break even point, there needs to be a certain guaranteed number of transactions. Large global firms in Europe and the U.S. have a guaranteed number of lease reviews and patent applications, but a big firm in Canada might only have 700 professionals — when it comes to head count we are simply not there.”

In addition to this, Gupta says she has found that good quality legal help tends to charge North American prices. “Granted, these

are not New York prices. But if they push the work down to younger juniors to complete, there will be an inconsistency in quality. While the partners are phenomenal in the work that they do, you won’t get that cost advantage.”

Labour rates are only part of the upfront infrastructure costs that can drive those prices up, including IT costs, ensuring privacy, and negotiating exclusivity with suppliers.

For the time being, Gupta says, the firm continues to handle its work internally. “We are very intrigued by offshore outsourcing, we remain open to it, but we haven’t yet seen a pitch that works for us.”



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