

# Legal Outsourcing: The Competitive Advantage

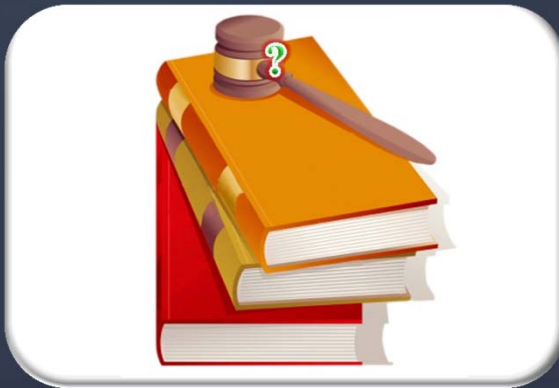
# Why We Need Cost Effective Solutions



Ever-Increasing Attorney  
Billing Rates



Dramatic Increase In Data Volume –  
Email, Texting



Changes In Federal Rules Relating To  
Electronic Data Discovery



Decrease In Corporate Legal Budgets  
And Resources

# What Is Legal Outsourcing?

- **Cost-effective, Quality Legal Support Services Provided by a Third Party**
- **Domestic Or Overseas Outsourcing Available**
- **Commonly Referred To As “Legal Process Outsourcing” or “LPO”**
- **Overseas Outsourcing Commonly Referred To As “Offshoring”**

# What Legal Outsourcing Offers

- **Cost-effective, Quality Legal Support Services Provided by a Third Party**
- **Access To Qualified Workforces In Multiple Practice Areas**
- **Ongoing Technological Advancement And Security**
- **Scalable Workforce Without Incurring Long-Term Benefit Costs**

# What Can Be Outsourced

- ✓ Document Review And Coding
- ✓ Pleadings, Discovery And Motion Drafting
- ✓ Legal Research
- ✓ Contract Drafting, Review And Abstracting
- ✓ IP And Patent Services
- ✓ Transactional Due Diligence
- ✓ Forensic Review

# Offshore Outsourcing

**Since 2000, Offshore Outsourcing Of Services In Various Industries Has Exploded, Including in the “Knowledge” Based Fields Such As Law**

- **Customer Contact Services**
- **Human Resource Services**
- **Finance and Accounting**
- **Engineering & Design**
- **Legal Support Services**
- **Data Search Integration Mgmt**
- **Website Services**
- **Remote Education**
- **Insurance**
- **Transcription**
- **Medicine (Radiology)**
- **Application Development**

# Taking Advantage Of A Global Legal Economy

- **Highly Skilled Workforce**
- **Dramatically Reduced Labor Cost**
- **Extended Work Day**
- **Level The Playing Field**



# Representative Law Firms With Offshore LPO Activities

WHITE & CASE

BICKEL & BREWER

 DIAMOND McCARTHY LLP

BAKER & MCKENZIE

JONES  
DAY®

HOWREY<sup>LLP</sup>  
THE ADVANTAGE OF FOCUS®  
ANTITRUST | GLOBAL LITIGATION | INTELLECTUAL PROPERTY

Skadden

Skadden, Arps, Slate, Meagher & Flom LLP  
& Affiliates



# Representative Corporations With Offshore LPO Activities

- **Microsoft**
- **American Express**
- **DuPont**
- **General Electric**
- **Canon**
- **Sun Microsystems**
- **Accenture**
- **Motorola**
- **Cisco**
- **Oracle**
- **Allstate**
- **Rio Tinto**
- **Novartis**
- **Morgan Stanley**

# *FAQs*

# Question No. 1

***Does The Use Of A Non-US Licensed Attorney Constitute The Unauthorized Practice Of Law?***

# Outsourcing Is Ethical And Permitted

- **ABA Formal Opinion 08-451 (August 5, 2008)**  
**Lawyer's Obligations When Outsourcing Legal and Non Legal Support Services**
- **State and Local Bar Association Opinions (New York Op. 2006-3, August 2006; Los Angeles Op. 518, June 2006; San Diego Op. 2007-1, January 2007; Florida, September 2007)**

# ABA Formal Opinion 08-451

**“There is nothing unethical about a lawyer outsourcing legal and nonlegal services, provided the outsourcing lawyer renders legal services to the client with the ‘legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation,’ as required by Rule 1.1”**

**“Ordinarily an individual who is not admitted to practice law in a particular jurisdiction may work for a lawyer who is admitted, provided that the lawyer remains responsible for work being performed and individual not held out as being a duly admitted lawyer”**

# ABA Formal Opinion 08-451

**“The outsourcing trend is a salutary one for our globalized economy.”**

**“Outsourcing affords lawyers the ability to reduce their costs and often the cost to the client,” thereby allowing law firms to better represent clients “effectively and efficiently.”**

# Question No. 2

***Does Outsourcing Waive  
The Attorney/Client Privilege?***

# *Outsourcing Does Not Waive The Attorney/Client Privilege.*

**The service provider is deemed an agent of the attorney, so long as the purpose of the communication was to assist the attorney.**



# Question No. 3

***Do You Have To Obtain Client's  
Consent to Outsource?***

# *You Must Obtain Client's Consent to Outsource.*

In outsourcing relationship, no confidential information (protected by Rule 1.6), may be revealed without client consent (ABA Opinion 08-451)

# Obligation To Communicate And Obtain Informed Consent Regarding Outsourcing

- **In outsourcing relationship, no confidential information (protected by Rule 1.6), may be revealed without client consent (ABA Opinion 08-451)**
- **A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph b. (Rule 1.6(a) of Model Rules of Professional Responsibility)**
- **Comment [5] regarding permission to share confidential information within a firm does not extend to outsourcing entity. (ABA Opinion)**
- **A lawyer may not make affirmative misrepresentations regarding status of lawyer not in employment (Rule 7.1, 8.4 c of Model Rules of Professional Responsibility)**

# Question No. 4

***Will The Conflicts Check Be Sufficient  
For My Needs?***

# Confirm Scope of LPO's Conflicts Checking Procedure

- **Confirm no conflicts exist with attorney performing outsourced work**
- **Confirm no conflicts exist with work performed by outsourcing company for other clients**
- **Confirm course of action taken by outsourcing company if conflict exists**

# Question No. 5

***How Do I Ensure Good Work Product?***

# Good Outsourcing Practices

- **Evaluate Vendor and Personnel**
- **Confirm Appropriate Work Being Outsourced**
- **Single Point of Contact for Clear Communication**
- **Customized Project Management and Oversight**
- **Highly Secure Data Hosting and Transmission and State-Of-The-Art Service Delivery Platform**
- **Scalable Workforce and Technology To Meet Client Demands**
- **Integrated Workflow Process Ensures Quality Control**
- **Conflicts Checks**

# Question No. 6

***What Is The Typical Cost Savings Associated With Outsourcing?***



# Cost Savings and Efficiencies

- **Direct Savings**
- **Indirect Savings**
- **Opportunity Cost**
- **Scalable Workforce**
- **Extend the Work Day**

# Question No. 7

***Can I Markup The Costs Of Outsourcing To My Client?***

**Yes, *but* “absent a specific agreement with the client to the contrary, the lawyer should charge the client no more than the direct cost associated with outsourcing, plus a reasonable allocation of overhead expenses directly associated with providing that service.”**

**(ABA formal opinion 93-379 (1993)).**

# Question No. 8

***How Do We Protect Confidentiality?***

# Confidentiality of Information Protected

- **Confirm Hiring And Training Practices of LPO**
- **Confirm Confidentiality Agreement s Signed**
- **Confirm Security Safeguards Exist And Enforced**

# Question No. 9

***Will My Information Be Secure?***

# LPO Physical Security

- **The flow of people will be through a proximity card reader security system**
- **Back up generator to protect data and facility**
- **Personal communications or data recording devices are not permitted**
- **Proper destruction and storage of paper documents**
- **Handbags, purses, and phones are forbidden**

# LPO PC Security

- **Removable drives are disabled from the domain controller**
- **Hard Drive disabled for storage**
- **No sharing of logins between users and multi-level passwords utilized**
- **Software installation is disabled except to system administrators**
- **System hardware configurations may only be changed by administrators**
- **Printing is disabled without prior authorization and clearance**



# Vendor Partner Security

## ■ Domain and file server

- ✓ Access to the servers and systems is restricted to individual username and password
- ✓ All users are allotted their corresponding folders under shared drives on server
- ✓ Periodic data backup is configured on the server
- ✓ All data transactions from file server are monitored and logged

## ■ Data Transfer Security

- ✓ Login information should be changed routinely
- ✓ Disaster recover and backup arrangements
- ✓ Backups performed at regular intervals throughout each day
- ✓ Continuous backup power

# Summary

- **Evolution Of The Legal Community Due To Rapid Expansion Of Technology And Data Volume Combined With Rising Costs**
- **The Outsourcing Option: Cost-effective, Quality Legal Support Services Provided by a Third Party**
  - Onshore or Offshore
  - Offshore – Nothing Changes, Except Geography and Cost
- **Your LPO Provider Is An Extension of Your Office So Stay Engaged**
  - Disclose Outsourcing And Obtain Informed Consent
  - Avoid Conflicts By Confirming LPO Conflicts Check Procedure Appropriate
  - Ensure Quality Work And Due Diligence Through Supervision And Communication
  - Keep Client Confidences and Client Information Secure

***Thank you!***  
***Hire Intelligence***

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