

From PLI's Program
Outsourcing and Offshoring of Legal Work Today
#4885

OUTSOURCING: POINTS NOTED IN 13 RECENT ARTICLES

1. Geanne Rosenberg, *“Offshore” Legal Work Makes Gains*, *The National Law Journal*, March 29, 2004, p. 1:

- ?? This article lists categories of legal work that have been performed offshore by non-U.S. lawyers, including “legal research; assistance in the drafting of legal memos and briefs; discovery work; assembling facts in support of litigation claims; and patent, trademark and ERISA work.”
- ?? Dennis Archer, president of the American Bar Association and chairman of Dickinson Wright, said, “There is no panic in the legal profession.” The outsourced services, whether provided by U.S. lawyers or non-U.S. lawyers, remain in the hands of the American legal profession through corporate law departments and lawyers admitted to practice in American jurisdictions. “They’re still under the supervision and control of lawyers,” Mr. Archer said.
- ?? Susan Hackett, senior vice president and general counsel of the Association of Corporate Counsel, said, “it’s cheaper to hire lawyers in India than it is here and that’s just pure economics.” “That has nothing to do with competence and professionalism,” she said, and those who argue otherwise “could be concerned about the protection of their own turf.” While Ms. Hackett said that there is no professional obligation for lawyers to disclose to clients that some of their legal work was being sent abroad, she said there is a “relationship obligation” to bring such arrangements to the attention of clients.
- ?? Thomas Morgan, professor of professional responsibility at George Washington University Law School, said that the lawyers admitted to American jurisdictions and supervising the work – whether it is performed by overseas lawyers or non-lawyers – are ultimately responsible for upholding professional standards, including those relating to confidentiality and client conflicts. With regard to the work done by non-U.S. lawyers, Professor Morgan said, “My guess is that these are people who have been trained in a common law system and are going to be asked to do things that are fairly routine, or, if it is sufficiently focused, that they’ll become pretty good at it.”
- ?? Companies providing outsourced legal services to law firms and law departments “are careful to avoid any appearance that their overseas lawyers are practicing U.S. law.”

2. Renee Deger, *Model Behavior*, *The Recorder*, Nov. 13, 2003, p. 1:

- ?? This article describes an approach called “the Legal Model,” used by DuPont to reduce its legal budget, that has attracted expressions of interest from lawyers at 160 other companies. Thomas Sager, DuPont’s chief litigation counsel, explained that the Model has improved communications, reduced poor-quality work, and saved DuPont \$8.8 million in legal bills in the previous year. The Model’s basic idea is to send a portion of the company’s legal work to someone other than attorneys at law firms. For example, DuPont uses lawyers from a temporary agency to handle relatively simple tasks such as conducting initial witness interviews, collecting exhibits, and reviewing documents. Such outsourcing “is exploding in popularity among corporate counsel.” This trend includes (1) using companies in the U.S. “that do discovery, document review and due diligence,” and (2) using “foreign outsourcing companies – particularly in India – to perform tasks like legal transcription and basic patent research.”

?? Mr. Sager said, “The biggest paradigm shift we’ve had to overcome is the notion of quality, that quality suffers when you use temps. But in fact the quality improves.” The temporary agency repeatedly uses many of the same lawyers, so they come to know and understand DuPont’s methods. Mr. Sager also said that attitude seems to play a role in quality. Lawyers working as temporary employees are usually doing the document work by choice, whereas law firm associates are not. Mr. Sager said, “This is the lowest form of work that a new associate or young partner would choose to do. This is the furthest thing in their mind as to what practicing law is.”

3. Sue Reinsinger, *General Counsel Cutting the Fat: GE is Saving Money by Hiring In-house Counsel in India*, The National Law Journal, March 10, 2003, p. A18:

?? This article reports that General Electric Corp. “has found an innovative way to hold down outside-counsel costs – by sending work to in-house lawyers in GE’s India operations, where attorneys are qualified but salaries are much lower.” Suzanne Hawkins, GE’s senior counsel for legal operations, said that GE saved about \$1.7 million in outside legal costs in the first two years of this expanded use of its in-house lawyers in India. GE has also taken other steps, including fixed and flat fees, preferred providers, discounts, and electronic auctions of business, so that only 40% of its legal budget is spent on outside counsel.

4. Jennifer Fried, *Change of Venue*, The American Lawyer, Dec. 2003, p. 49:

?? This article reports that “many in-house legal departments are cutting costs by relying less on U.S. outside counsel and more on lawyers in India, New Zealand, South Korea, and other countries where professional salaries are lower.” This involves more than copying, accounting, and other back-office functions. Law departments “have found ways to use foreign employees – sometimes local attorneys, sometimes nonlawyers – to handle such matters as patent prosecution, legal research, and contract drafting.”

?? A market research firm, Forrester Research, Inc., predicts that by 2015, more than 489,000 U.S. lawyer jobs, nearly 8 percent of the expected field, will shift to other countries.

5. Ellen L. Rosen, *Corporate America Sending More Legal Work to Bombay*, New York Times, March 14, 2004, § 10, p. 1:

?? This article reports that companies such as BorgWarner and General Electric are starting to experiment with using foreign lawyers for discrete legal projects. “Some companies say they can reduce certain legal costs by as much as 50 percent, and receive work that rivals what they can obtain in the United States.” Dennis Archer, president of the American Bar Association, said, “The need to cut costs reaches across many departments, so it should be no surprise that it goes to the legal department as well.”

6. Ameet Sachdev, *Law Firms Slow to Outsource*, Chicago Tribune, Jan. 19, 2004, § 4, p. 1:

?? This article reports that although outsourcing “has become a cost-cutting mantra in corporate America, it is still in its infancy at law firms.” A consultant noted, “A whole lot of things happen

late in the legal marketplace just because lawyers are very, very conservative.” Many law firm managers react to contracting out legal work “as if they might be breaking the law” – and they worry about security and confidentiality; they say clients “might feel short-changed when the work is shipped elsewhere”; and “there’s also the implicit threat of cuts in jobs or pay.”

- ?? Lawyers “may have to start changing their attitudes if cost-conscious corporations have their way,” as in-house legal departments send work to countries where professional salaries are lower. Andrew Corp. has reduced its use of U.S. outside counsel by shipping some patent application work to a law firm in New Zealand. General Electric Co. has lawyers in India who draft contracts and other documents.

7. David A. Steiger, *The Bottom Line Doesn’t Recognize National Boundaries*, Chicago Tribune, Sept. 28, 2003, § 2, p. 1:

- ?? This article reports that as service professionals perform more functions by using networked computers, it becomes easier to work on projects remotely. For example, a law firm handling a complex product-liability lawsuit generally assembles a team of professionals, including paralegals to organize documents; associates to conduct legal research, draft routine papers, and attend to more mundane aspects of the case; and experienced partners to formulate strategy and handle trial and appellate proceedings. With existing technology, “much of that work could be outsourced to the developing world and seamlessly incorporated into the day-to-day representation of a client.”
- ?? Once understood, “the inexorable economic logic of outsourcing even relatively complex professional services is nearly impossible to ignore.” “Most companies caught in an increasingly cutthroat global market will find it difficult to resist the opportunity to cut their routine legal costs by 80 percent or even 90 percent, once it can be demonstrated that they will suffer no significant loss in quality.”
- ?? “Many American professionals in this age are sadly quite arrogant. It is very difficult for them to imagine someone in the developing world having the ability to do their job. What is obvious, though, is that given half an opportunity, people in the developing world are as intelligent and motivated as anyone here. And the opportunities for these people are coming quickly.”

8. Del Jones, *Nation’s Lawyers Surge With Recession*, Chicago Sun-Times, Dec. 26, 2003, p. 52:

- ?? This article reports that in 2003, for the first time, the total number of lawyers in the United States exceeded 1 million, and record numbers of people were taking the Law School Admission Test.
- ?? According to Walter Olson, senior fellow at the Manhattan Institute and editor of *overlawyered.com*, the additional lawyers will most likely find work, because companies will continue to combat the fear of litigation. Mr. Olson said the real cost to society is the drain of smart people out of other areas of the economy – as some of the greatest minds are “adding 300 words to a 1,000-word prescription drug warning.”
- ?? In 2003, overall revenue growth for law firms exceeded 10 percent, and profit growth exceeded 9 percent.

- ?? Lawyers say they are busy. Fifty-three percent say their greatest challenge is managing increased workloads, according to a November poll by the Affiliates, a lawyer/paralegal staffing service.

9. Lou Dobbs, *The Imbalance of Trade*, U.S. News & World Report, April 5, 2004, p. 46:

- ?? This article observes that German Chancellor Gerhard Schröder recently said that offshoring German jobs to cheap foreign labor markets is “unpatriotic.” In the United States, Sen. John Kerry has called executives who outsource American jobs overseas “Benedict Arnold CEOs.” The article concludes: “This is a time for clear thinking on the part of our policymakers – not sad efforts to distort an important debate in a presidential election year.”

10. David Ignatius, *Adding Jobs and Anxiety*, Washington Post, March 30, 2004, p. A19:

- ?? This article observes that U.S. unemployment in February was 5.6 percent – “down from the 5.9 percent rate of a year ago and far below the levels of major economic competitors.” The unemployment rate is 9.6 percent in France; 10.3 percent in Germany; and 12.8 percent in Belgium. In Japan, “where unemployment was once almost unknown,” the jobless rate is at 5 percent. “By this measure, the vitality of the American economy remains undiminished.”
- ?? The article also states: “Yet the American obsession with work persists, to the point that it’s a defining aspect of our culture. Americans treat employment as a birthright, and the prospect of losing a job is a source for deep distress. What’s more, Americans don’t have the same union protections or social safety net they once did to cushion the fall.”
- ?? The article observes that Sen. John Kerry has found a powerful campaign issue in this job anxiety. “So it was reassuring last week to see that his first detailed proposal for dealing with the outsourcing of jobs abroad was relatively restrained. He called for modest changes in the tax code that would limit some benefits companies get for investing overseas. That’s the kind of ‘level playing field’ proposal that even an economist could love.”

11. William Dudley (Chief U.S. Economist of Goldman Sachs), Peter Hooper (Chief U.S. Economist of Deutsche Bank Securities), and David Resler (Chief Economist of Nomura Securities International), *Ease the Pain, But Don’t Stop Offshoring Services*, Financial Times, March 26, 2004, p. 13:

- ?? This article states that the number of service-sector jobs outsourced to India is quite modest – “probably no more than 200,000 a year from a labor market that, over the past decade, has shown average net gains of close to 2 million jobs annually.” When the net effect on job creation is considered, it appears that jobs outsourced to India “are offset by those generated by increased demand for U.S. goods and services from more prosperous Indians.” Also, by offshoring some jobs, “U.S. companies reduce costs, lower prices, boost profits, and eventually hire more U.S. workers to help meet the resulting increase in demand.” Also, there is significant “in-sourcing” to the U.S. “In fact, the U.S. runs a large and increasing trade surplus in services.”
- ?? There have been recent problems in creating new jobs in the U.S. “Productivity growth has surged as business exploits operational efficiencies first promised during the 1990s technology

boom. The rising fixed costs of granting retirement and medical benefits to new workers may also be a factor in dampening job growth, and the labor market may still be absorbing the excessive hiring at the height of the boom.” Also, the concern about outsourcing has been amplified by two other factors: “First, while the costs are huge for those who lose their jobs, the beneficiaries either are unaware that their jobs are linked to liberalized foreign trade or do not appreciate that outsourcing is holding down the prices of the goods and services that they buy. Second, it is an election year: outsourcing is an issue that can be used to influence voters.”

?? The article states: “To penalize U.S. companies by prohibiting outsourcing would be counter-productive. We need to reduce the adjustment costs associated with global competition, but not forego the vast benefits of free trade. The labor market is likely to improve over the next year. When it does, some of the offshoring controversy will fade.”

12. Michael M. Phillips, *More Work is Outsourced to U.S. Than Away From It, Data Show*, Wall Street Journal, March 15, 2004, p. A2:

?? This article reports: “The value of U.S. exports of legal work, computer programming, telecommunications, banking, engineering, management consulting and other private services jumped to \$131.01 billion in 2003, up \$8.42 billion from the previous year, the Commerce Department reported Friday. Imports of such private services – a category that encompasses U.S. outsourcing of call centers and data entry to developing nations, among other things – hit \$77.38 billion for the year, up \$7.94 billion from 2002. Measuring imports against exports, the U.S. posted a \$53.64 billion surplus last year in trade in private services with the rest of the world.”

13. Christopher Swan, *Offshoring Debate: Moving Jobs Abroad “Will Create Them in the US,” Financial Times*, April 2, 2004, p. 4:

?? This article reports that an increasing number of economists claim that outsourcing more jobs overseas will lead to more jobs being created in the U.S. “Even if much low-end production takes place outside the U.S., the management, logistics, research and development and international IT remain in the U.S.... Between 1991 and 2001, U.S.-based multinationals created 2.9 million jobs overseas. But they also created 5.5 million jobs inside the U.S. – an increase of about 30 per cent in payrolls. This was significantly faster than the rate at which purely domestic companies generated jobs.”

?? Economists argue that while the job losses caused by offshoring are conspicuous, the benefits are larger. A paper co-authored by Nobel laureate Lawrence Klein estimates that offshoring in the IT industry has already lifted real wages by 0.1 per cent; has created more than 90,000 net new jobs in 2003; and will create an additional 317,000 a year by 2008.

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The basic idea

Andworth Chambers LLC provides to attorneys in the United States high-quality legal research at an affordable fee. Assigned topics are researched by our seasoned lawyers based in India, with in-depth coordination and review by our lawyers in the U.S. We handle a wide range of assignments, from 50-state surveys to research in response to specific questions in a single jurisdiction.

Why it makes sense

Legal research in the U.S. is typically done using Lexis, Westlaw, and other Internet-accessible databases. Lawyers in India speak English, and their legal system, like ours, is based on the English common law. Why not train lawyers in India to apply their research skills to U.S. law, using U.S. databases available on the Internet?

We have a team of India's best and brightest lawyers. All have stellar academic records, plus years of practice experience. All have been trained by our U.S. lawyers to do U.S. legal research. All are proficient in using Lexis, Westlaw, and other databases. All are full-time researchers, fully committed to doing high-quality work for our clients.

So we can now offer high-quality research services to attorneys in the United States, at a reasonable price.

Quality

Think back to when you first became a lawyer. You probably did legal research, but were eager to move on to other aspects of your career. Our lawyers are specialists. They are skilled in doing research at the highest levels of quality – and are eager to do so. They have made research their career.

We can be thorough and attentive to detail without having the cost of our research be exorbitant. Let us give you examples of our work, and you can evaluate the quality.

Reasonable price

The basic rate for our services is \$125 per hour, plus expenses.

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Project pricing

If you prefer, we can agree at the outset on a total price for a project, based on how many hours the project is expected to take.

Staff augmentation

We can also assign to a client a dedicated team of researchers to augment the staff of a corporate legal department or law firm, for periods of 30 days, 60 days, 90 days, and beyond.

What we do

We assist attorneys by doing requested research. We do not engage in the practice of law. We do not accept assignments from non-attorneys. We preserve the confidentiality of our clients' information.

Types of clients

The general counsel of a big company, with a staff of attorneys, may not want to (1) pull attorneys away from other tasks to do a 50-state survey; (2) add more attorneys to the payroll; or (3) have the research done by law firms with high billing rates. Andworth Chambers can do research that is high-quality and reasonably priced.

The general counsel of a small company, with no staff of attorneys, may not want to (1) spend time himself or herself doing research; or (2) have the research done by law firms with high billing rates. Andworth Chambers can be a reliable, helpful resource for the general counsel to draw upon as needed.

A small law firm may not want to add more attorneys to the payroll. Andworth Chambers can help the firm be efficient, innovative, and economical in providing high-quality service to its clients.

A large- or medium-size law firm may want to find innovative ways to keep costs under control. Years ago, most firms did not use "contract attorneys" on a temporary basis for reviewing huge numbers of documents in a lawsuit; now this is commonly done. In such cases, the firm uses its associates for tasks better suited to their billing rates. It makes similar sense to use Andworth Chambers for legal research.

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In the U.S.

Bruce H. Weitzman, President & CEO

Bruce Weitzman is the founder of Andworth Chambers LLC. He designed our training program and led the team providing instruction to our India-based lawyers. Mr. Weitzman had a 22-year career as a trial lawyer at McDermott, Will & Emery, where he also designed and led the Trial Department's training program for associates. He received his J.D. from Harvard Law School in 1976.

Gilbert J. Regan, Vice President

Gil Regan was part of the Andworth Chambers training team in India, and he now focuses on business development in the U.S. He had a 30-year career as an officer, lawyer, and judge in the U.S. Air Force, where he also acted as an advisor for legal training programs. After retiring as a Brigadier General, Mr. Regan formed EquiSolve, a dispute resolution firm. He received his J.D. from Harvard Law School in 1969.

Ann C. Petersen, General Counsel

Ann Petersen's background includes 13 years as a trial lawyer at Wildman, Harrold, Allen & Dixon, followed by service as General Counsel of the U.S. Air Force (1989-1993). She then returned to private practice in Chicago, also serving as a member of the adjunct faculty at DePaul University College of Law. Ms. Petersen received her J.D. from the University of Michigan Law School in 1976.

Betsy L. Freeman, Vice President, Marketing

Betsy Freeman has an operations and marketing background with previous positions as Global Business Developer for Pricewaterhouse Coopers, and as Senior Managing Director, High Technology Practice, for Hill and Knowlton. Earlier, Ms. Freeman served as an Air Force officer, including a tour of duty completed in 1992 serving as a public affairs advisor in the Office of the Secretary of the Air Force.

In India

We have a dedicated team of seasoned lawyers in India, in new offices, with state-of-the-art equipment. Our lawyers are full-time research specialists, proficient in using Lexis, Westlaw, and other Internet-accessible databases. Our ability to recruit, train, and supervise the best and brightest of India's lawyers enables us to do U.S. legal research that meets the highest standards of quality.

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An interactive process

Our research is an interactive process involving our India lawyers, U.S. lawyers, and client. With our U.S. lawyers as liaison, we can keep the client informed about what is found during the course of our research, and modify the assignment if necessary. We can address questions that arise, and bring to the client's attention additional points to consider.

If a corporate legal department or law firm wants to have available a dedicated team of researchers for a period of time, the department's or firm's own lawyers can directly interact with the members of the team.

How this happened

Bruce Weitzman teamed up with a visionary business executive in India to find a way to provide high-quality U.S. legal research at a reasonable price. Lawyers and support staff in India were hired, a training center was established, and an innovative training program was designed. After the initial training, Mr. Weitzman formed Andworth Chambers LLC, an Illinois limited liability company, to work with clients in the U.S.

Future plans

We will do all we can to build long-term relationships with our clients. We plan to train additional lawyers in India, add more experienced lawyers in the U.S., and expand to meet our clients' increasing needs.

Audition us

Think of an appropriate assignment; discuss with us how many hours you think the assignment should take; then pay us only if you are satisfied with the quality of our work.

For more information, call Bruce Weitzman at (312) 664-6279, or send an e-mail to *andworthchambers@aol.com*.