How Big a Threat are ALSPs to Mid-Market Firms?

Commodity work is vulnerable, and firms need to emphasize communication and the unique and sophisticated nature of their work.

By Hank Grezlik | May 10, 2019 at 06:36 AM

*Editor’s Note: This is the first part in a two-part series examining the impact of alternative legal service providers on midsize firms. The first part assesses the threat that ALSPs pose. The second part will look more closely at how the dynamic is playing out in the market, and what midsize firms are doing, or can do, to gain an advantage in the competition.

A lot has been written about the growth of alternative legal service providers and how they are disrupting the legal market. But how big a threat are ALSPs to mid-market firms, and what should midsize firms do to stay competitive?

Talk to law firm consultants and mid-market firm leaders, and not surprisingly, there isn’t any consensus.

But even those who didn’t see them as an immediate threat for midsize firms generally acknowledged they had the potential to take work away from them.

Several said there doesn’t appear to be an immediate threat because the bigger ALSPs—the Big Four accounting firms, Axiom, UnitedLex—are focused on servicing larger clients outside of most midsize firms’ client bases.

“They are going after really large companies,” said Robert Kaplan, the leader of Virginia-based Kaplan Voelker Cunningham & Frank. Kaplan’s firm does a lot of business law, business litigation and REIT work. He estimated that 80% of their work is national and outside of Virginia: “I think midsize firms are really kind of insulated.”

Consultant Marcie Borgal Shunk, president and founder of the Til Institute, echoed that sentiment.

She said the ALSPs have been more focused on Fortune 1000 companies and less on middle-market companies because the larger companies have higher-volume work.

But she cautioned that mid-market firms shouldn’t be lulled into thinking they’re completely safe.
“It depends on the focus of the firm and the type of work [less on the size of the firm],” she said. “Run-the-company work [as opposed] to bet-the-company work is more vulnerable.”

“Employment, discovery, document review, due diligence, IP... that work is going in-house or to the ALSPs,” Borgal Shunk said.

Nicholas Bruch, director of ALM Intelligence Fellows Institute & principal analyst, agreed that the bigger ALSPs were focused on going after bigger clients. But he said that didn’t mean mid-market firms were in the clear.

“The mid-market firms, they should be nervous,” Bruch said. “Not today, but down the road.”

Unlike Kaplan, James Goodnow, president and managing partner of Fennewmore Craig, a Mountain West firm based in Arizona, said ALSPs do pose a threat to midsize firms.

“You better believe mid-sized firms need to be worried about ALSPs,” Goodnow said in an email to the Mid-Market Report. “The pace of growth and speed with which ALSPs are gaining market share is staggering. But firms with their heads buried in the sand might not notice. Clients rarely send emails announcing they are pulling work. Instead, they move it silently. ALSPs are taking direct aim at law firms by marketing against them—decrying the ‘black hole’ of law firm legal fees and offering fixed flat fees and tighter budgeting.”

Others are less convinced.

Aric Press, the longtime former editor-in-chief of The American Lawyer (and former colleague) and partner at PP&C Consulting LLC, said the threat depends on the types of work midsize firms do.

“[ALSPs] will be a threat to some and not a threat to others,” he said. “I think it is a very extremely splintered market. It’s very hard to generalize.”

Press said that over the last three to four years, he has spoken with hundreds of clients and “for the most part, it’s not a topic that comes up.”

“I don’t see it being a threat to most midsize firms,” he said.

Given his experience as a journalist, particularly years spent covering the legal industry, Press said that he understood why it’s “attractive to think the next big thing is around the corner.”

That is, he added; “until you realize later that corner is a lot farther down the road.”

**How Big Is Their Share?**

Press acknowledged that people are interested in what ALSPs are doing, and they are growing, “but it’s a tiny part of the market.”

They can’t negotiate a deal like a high-end transactional lawyer or litigate like a top tier trial attorney, he said.

“Unless and until the ALSPs are capable of doing that high-level work ... until they can do that, why is the client going to change?” Press asked.

But Bruch said the ALSPs are adept at identifying mid-level work and finding solutions that turn it into low-level work, allowing them to expand their market share. So there’s no reason to believe they won’t stop growing.

How big a part of the market will they be? Bruch asked rhetorically. Five percent? Ten percent?

“Let’s assume it will be 20%;” he said. Given how they use process improvement, engineering and software, mid-market firms can’t compete in terms of the technology and the investment ALSPs apply to certain types of work.

**Online Providers Take Work Too**

Since technically ALSPs include everything from the Big Four to e-discovery companies to online service providers like LegalZoom, there are some unique challenges for midsize
firms.

Kaplan said online providers “from a market perspective, they aren’t much of a competitor for our firm,” and added that if one of his firm’s clients winds up using an online outfit, “nine out of 10 times,” his firm is redoing the work.

But he admitted they’ve still had an impact on his firm.

“The obstacle for us is that they really create unrealistic expectations for the consumer market,” he said.

Henry L. Bowden Jr. of Bowden Spratt, an 11-lawyer Atlanta trusts and estates firm, noted that the elimination of the estate tax for any couple with less than $22.4 million in assets eliminates some need for complex legal work around trusts and estates. He said he assumes ALSPs like LegalZoom “can step into the breach and do a good job” for people who want simple wills that leave everything to a spouse or child.

The tax law changes means that only 0.2 percent of the people in the U.S. have assets that can still benefit from wills and estates established to work around the 40% tax rate for inheritances over $22.4 million per couple. Some of those in that rarified demographic are his firm’s clients, said Bowden.

“We are fortunate to represent some pretty wealthy people,” he said.

Lizzy McLellan, Jonathan Ringel and Mark Bauer contributed to this report.

Editor’s note: Next week we will look at how ALSPs are operating and taking market share, and what mid-market firms can do to compete.

Hank Grezlak

Hank Grezlak is the editor-in-chief for ALM’s legal theme desks, Law.com and regional publications, and has been covering courts and law firms since 1993. He has won numerous awards for his journalism, including several for investigative reporting, columns, and enterprise reporting. In 2016 he was awarded the G.D. Crain, Jr. Award for Distinguished Editorial Career.

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How Mid-Market Firms Can Counter Competition from ALSPs

What can firms do to counter the threat from ALSPs? Suggestions range from partnering with them to altering how they staff matters to focusing even more on personal relationships with clients.

By Hank Grezlik | May 17, 2019 at 08:26 AM

*Editor’s note: last week we examined the threat alternative legal service providers pose to mid-market law firms. This week we look at what firms can do to counter that competition.*

While mid-market firms might not view alternative legal service providers—which run the gamut from large players like Axiom, UnitedLex and the Big Four, to online providers like LegalZoom and e-discovery companies—as immediate threats, consultants and firm leaders said midsize law firms need to be prepared to compete.

Part of that is having a better understanding of how ALSPs operate and approach legal work. Given their track record of taking mid-level work and turning it into lower-level commodity work, it's easy to see why some think mid-market firms should be concerned down the road.

What can firms do to counter the threat from ALSPs? Suggestions range from partnering with them to altering how they staff matters to focusing even more on their partners' personal relationships with clients.

**The Less Personal the Work, the More Vulnerable**

One recurring theme among the law firm leaders and consultants the Mid-Market Report spoke with was that law firms that did a fair amount of commodity work—or what could potentially become commodity work—were particularly vulnerable to competition from ALSPs.

"I think these entities fill a role in the legal market, but the types of clients we are seeking out as a law firm want a fully accountable relationship," said Mitch Little, a partner at Scheef & Stone in Frisco, Texas, in an email. The roughly 60-something-lawyer firm was formed by lawyers specifically in order "to serve their clients from a more personal setting," according to the firm website.

On the other hand, Little said he does believe ALSPs will continue to disrupt large firm
practice, particularly where a large corporation has an overlapping relationship with a Big Four accounting firm.

“When you are senior litigation counsel at a publicly traded company and your accountants and auditors are telling you that they can do a lot of what your big law firm does (eDiscovery, legal research) at a fraction of the price, whom should you trust? Whom should you believe?,” Little said in the email. “I think ALSPs will have the greatest market traction where the practice of law is the most impersonal.”

Marcie Borgal Shunk, president and founder of The Tilt Institute, said many firms, midsize firms included, dismiss ALSPs as bottom feeders that are taking the work law firms don’t really want.

While ALSPs have taken commodity work, Aric Press, the longtime former editor-in-chief of The American Lawyer (and former colleague) and partner at PP&C Consulting LLC, said firms have adapted.

“Even when it comes to commodity work, firms have responded to the document review challenge with contract lawyers and staff attorneys and part-time staff attorneys,” he said.

Borgal Shunk agreed—to a point.

Things like staff attorneys and contract attorneys “can give [firms] what they need to compete” against the ALSPs, she said. But, she added that midsize firms are far more reluctant to adopt those types of approaches.

In addition to pointing out how firms have adapted staffing options to handle certain types of work, Press also emphasized the importance of the personal and how it gives firms an advantage over ALSPs.

“The legal business is a relationship business, and if they attend to the needs of their clients,” they will be fine, he said.

Firms that take their clients, or the work they do for them, for granted are making “a major mistake,” Press said.

**Turning Mid-Level Work into Commodity Work**

There appears to be a danger to firms, particularly mid-market firms that merely dismiss ALSPs as taking the low-level commodity work they don’t want. And that’s because of how ALSPs approach legal work in general, and identify and attack what they see as opportunities.

“The ALSPs are attacking service lines one at a time,” said Nicholas Bruch, director of ALM Intelligence Fellows institute & principal analyst.

It started with e-discovery, he said. Now it’s contract management, and some intellectual property work.

They are “attacking discrete services...it happens quickly,” Bruch said. “E-discovery was commoditized in half a decade.”

What they do, he said, is create “plug and play solutions.”

“They build off-the-shelf products and turn mid-value services into low-value services,” Bruch said.

**How Mid-Market Firms Can Address the Threat**

So if ALSPs have more money and better technology, what can midsize firms do to compete with them?

Bruch said “the play has to be...[to] really work to partner with ALSPs.”

“It will be painful because they will be giving dollars away,” he said. “They will take the high-value work and they will be the client contact and manage the relationship. The ALSPs will be the sub-contractors. That’s a good place to be.”
Use Contract and Staff Attorneys

James Goodnow, president and managing partner of Fennemore Craig, a Mountain West firm based in Arizona, said firms need to invest in data analytics tools to offer flat rates and “meaningful budgeting.” He said they also need “to push harder into the world of contract and staff attorneys to try and match the reduced labor costs offered by many ALSPs.”

But he also echoed Bruch’s sentiments.

“If you can’t beat ‘em, join ‘em,” he said in an email. “Firms need to wake up to the reality that there may be some areas that ALSPs may be better at than traditional firms—and that’s okay. Firms that try to force clients away from options that may be more cost-effective or offer more value will lose credibility with big clients—and potentially work. The ALSP train has taken off, and it’s not going to stop. So firms need to take a hard look at their business model to learn how to co-exist with ALSPs before they get crushed by them.”

Borgal Shunk said firms should acknowledge “the practice areas that are being impacted and isolate them.”

After that, Borgal Shunk said, firms should decide what they want to do, “and if they want to compete, [they should] look at things like alternative staffing models and leveraging technology.”

Talk to Clients, Be Better Than Everyone Else

Press emphasized the importance of client relationships and doing work the ALSPs can’t do. He said firms should touch base with their clients all the time. It’s hard to be “surprised if you’re talking to them all the time,” he said.

“I would advise [mid-market firms] to talk to their clients and attend to their needs, and if your core business is something that someone else can do for cheaper, you need to find a new core business.”

“Find the thing you do well and convince the market you can do it better,” than the competition, Press said.

Lizzy McLellan and Mark Bauer contributed to this story.

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