

# LEADING THE WAY

Highly innovative start-up law firms are taking on new markets, leveraging technology and dreaming up new ways of doing business.

**F**or decades, the traditional law firm business model has been a masterpiece of profitability, built on time-based billing, open-ended pricing and lawyers regularly reinventing the wheel.

But the model today is showing signs of strain as firms grapple to varying degrees with strategic stagnation, lawyer attrition and pricing pressures from clients. More and more industry watchers are warning that routine or repeatable elements of lawyers' offerings — not the backbone of all practices, but of many — are about to suffer a steep decline in profitability. What's more, shared risk, predictable prices, systemic efficiencies, alignment with client interests — these are what clients are asking for.

By Jordan Furlong

VENTURI + KARFA

Meeting this enormous challenge is a huge task for the legal profession — but the good news is that we don't need to start from scratch. Already in Canada, new law firm models are emerging that promise different means to engage with the marketplace and to deliver legal services in ways that benefit modern lawyers and their clients. Here are four such examples to consider.

### Heritage Law, Vancouver

By the time Nicole Garton-Jones had articulated with Borden Ladner Gervais LLP and worked with Bull Housser Tupper LLP in Vancouver, she was sure of one thing: “Being an associate in a larger firm wasn't the right fit for me.” After brief stints in public affairs and as a contract lawyer, she started her own firm, Heritage Law, in June 2005.

Today, that firm features six lawyers, an equal number of staff, and one of the most streamlined, automated and forward-thinking legal business models in Canada. Heritage Law practises family and estate law and mediation, but what sets the firm

apart isn't what it does but how it does it. “Our lawyers have an unusual degree of flexibility and autonomy, and work-life balance is fundamental to our DNA,” says Garton-Jones.

She traces Heritage Law's distinctiveness back to its founding in 2005: “I started as a solo, and I was pregnant.” This was a challenge she had to figure out how to manage, and quickly. Her husband, a computer engineer, recommended and designed a paperless office with a virtual server, voice-over-IP phones and other modern amenities. It worked — and “because it worked for me, I knew it was going to work for other people.”

In several respects, this is a law firm with strict operational expectations. There are minimum requirements for billing, client service, and business development, as well as time limits on returning calls and getting work out the door. Every client is contacted every three months to rate the firm on a scale of 1 to 5 (currently, 88% give it a 4 or 5). It's a self-starting firm that can be hard on lawyers unprepared for that much responsibility.

But otherwise, flexibility, independence and entrepreneurship

Pendant des décennies, le modèle traditionnel des cabinets juridiques a été un chef-d'œuvre de rentabilité, érigé sur l'édifice des heures facturables. Aujourd'hui, ce même modèle montre des signes de fatigue. De plus en plus, les clients réclament un partage des risques, des coûts prévisibles, une efficacité systémique et un alignement avec leurs intérêts.

Relever ce défi sera une tâche énorme pour la profession juridique. La bonne nouvelle, c'est qu'on ne part pas de zéro. Déjà, au Canada, de nouveaux modèles émergent. Ils proposent de nouveaux moyens de répondre aux besoins du marché, profitant à la fois aux avocats et à leurs clients. En voici trois exemples.

### Heritage Law, Vancouver

Une fois son stage terminé chez Borden Ladner Gervais et après avoir travaillé chez Bull Housser Tupper à Vancouver, Nicole Gartin-Jones était sûre d'une chose : « Être une jeune avocate dans une grande firme n'était pas pour moi », dit-elle.

En 2005, elle a fondé Heritage Law. Aujourd'hui, la firme compte six avocates, autant de membres du personnel administratif. Et elle est l'une des études légales les plus automatisées et avant-gardistes dans la pratique canadienne.

L'avocate retrace les débuts de Heritage Law à 2005. « J'ai commencé ma carrière en solo et j'étais enceinte », se souvient-elle. Son mari, ingénieur informatique, a tracé les plans d'un bureau sans paperasse, doté d'un serveur virtuel et d'autres installations modernes.

Heritage Law impressionne ses clients en publiant sa grille fixe d'honoraires sur son site web. « Pour la plupart des clients, c'est leur argent véritable, dit M<sup>e</sup> Gartin-Jones. Ils écrivent leurs propres chèques, qui sortent de leur compte personnel. »

À plusieurs égards, c'est une firme avec peu de règles ou d'attentes. Les six avocates (toutes des mères qui travaillent) font leur propre horaire et structurent leur pratique comment elles le désirent.

Mais les nouveaux arrivants doivent faire connaissance avec le système de gestion d'information du

## Les éclaireurs

Voici les nouvelles firmes qui tracent la voie vers un nouveau modèle d'affaires, mieux adapté aux défis modernes.

bureau, un système entièrement automatisé. En fait, pour fonctionner, la firme s'appuie largement sur des programmes et logiciels comme PCLaw et HotDocs.

« Ce n'est qu'une question de temps avant que davantage de firmes ressemblent à cela », croit M<sup>e</sup> Garton-Jones.

### Zizzo Allan Climate Law, Toronto

« Nous essayons de travailler en collaboration avec des fournisseurs que nos clients pourraient utiliser », explique Laura Zizzo, qui a quitté Gowling Lafleur Henderson l'an dernier pour créer sa propre firme. Travis Allan s'est joint à elle en février.

À cet effet, elle cite l'exemple d'un appel d'offres diffusé par la Toronto Region Conservation Authority pour de la recherche concernant des panneaux solaires sur les toits autour de l'aéroport Pearson. « Nous avons assemblé une équipe qui comprenait des ingénieurs », explique-t-elle. « Et nous l'avons emporté. »

Le Barreau du Haut-Canada, bien entendu, observe avec intérêt la prestation innovatrice de services juridiques. Mais Zizzo Allan passe la barre parce que la firme comprend et souligne les différences entre la pratique du droit et la consultation. « Le Barreau dit que tant que vos clients ont l'impression que vous fournissez des services juridiques, que vous vous présentez comme un avocat, que ce que vous faites touche au droit et que c'est donc un avis juridique, il est satisfait », dit l'avocate.

Selon elle, le succès de la profession dans l'avenir passe par ce genre de multidisciplinarité. « Les interconnexions sont ce qui va régler certains de nos

grands problèmes — et pas seulement en matière de changement climatique, note-t-elle. Donc j'encourage les autres firmes à considérer les moyens d'y parvenir. »

### n2one, Ottawa

Thomas Prowse travaillait au département juridique de Bell Northern Research (devenu Nortel) en 1994 lorsque les logiciels à code ouvert (*open source software*) ont attiré son attention. Rapidement, ils sont devenus plus qu'une simple technologie : ils sont devenus un modèle de travail juridique.

Les ingénieurs, en première ligne, produisaient des conventions de non divulgation, par exemple. Et pour les services juridiques, des parajuridiques faisaient le tampon entre les clients et les avocats, qui se chargeaient en dernier recours des problèmes plus complexes.

Cette approche a impressionné M<sup>e</sup> Prowse à un point tel que 16 ans plus tard, elle forme le fondement du modèle de partage libre qu'il développe en vue de fournir des services juridiques.

Il divise son temps entre son rôle d'avocat dans le groupe droit des technologies de Gowlings, à Kanata, et sa compagnie en démarrage, n2one inc. « Depuis 1994 j'ai beaucoup réfléchi à la raison pour laquelle les services juridiques ne pourraient pas être fournis de la même manière que des logiciels, où ils seraient offerts à une large base d'abonnés, avec des revenus générés par un soutien continu », explique-t-il.

M<sup>e</sup> Prowse compare son modèle à une roue. « Au bord, il y a une multitude de clients liés par une ressource commune d'informations juridiques », explique-t-il. Le centre de la roue, plus petit, mais plus dispendieux, serait occupé par les avocats qui fournissent des conseils légaux plus précis, sur demande.

« Je suis très excité par les possibilités que ce genre de modèles offrent à la profession, dit l'avocat. Mais je dois avouer que ma vision en est une très centrée sur les besoins des clients. »

Or, comme le suggèrent ces nouveaux modèles, c'est probablement cette vision qui donnera son élan à la profession légale pour les décennies à venir. **N**



**LAURA ZIZO, Zizzo Allan Climate Law LLP, Toronto**

**“We try to work more collaboratively with other providers that our clients might be using.”**

carry the day. The six lawyers (all working mothers) set their own schedules and structure their practices however they wish within the guidelines.

The firm also impresses clients by listing fixed-fee prices on its website. “For most clients, this is their real money,” she says. “These are people writing cheques right out of their personal account, and they’re afraid of the hourly rates. It’s a fear of the unknown, and I find that the fixed fee takes a lot of the fear away from it.”

Heritage Law invests heavily in systems to make all this possible. New arrivals are introduced to its “plug-and-play” setup: “Here’s the information you need to be competent in this area, here’s a checklist you have to follow for every matter that comes in, an office manual for how we run the firm, what we do for marketing.... We’ve got a knowledge management system in place, we’ve got really good precedents, we’re totally automated.”

And the firm relies especially on technology. Although not “virtual” — it has two offices — the firm links a series of software programs like PCLaw, Time Matters, Worldox and HotDocs into a cohesive technology platform. “We don’t have any paper anywhere — it all lives on the server. And we have a portal where you can do estate planning completely on-line; there are some legal services where you never need to come in at all.”

Despite this success, expansion plans are on hold for now. Nonetheless, says Garton-Jones: “In 10 years, what we’re doing is going to be garden-variety. It’s just a matter of time before more firms look like this.”

#### **Zizzo Allan Climate Law LLP, Toronto**

“We think a little bit differently,” says Laura Zizzo, who left Gowling Lafleur Henderson LLP last year to launch her own climate change practice (Travis Allan joined the partnership in February). “We try to work more collaboratively with other providers that our clients might be using.” Indeed, Zizzo Allan routinely works with non-lawyers like engineers and business consultants when delivering climate change services to clients.

Zizzo cites one file, an RFP issued by the Toronto Region Conservation Authority for research regarding rooftop solar around Toronto’s Pearson Airport, as an example. “We responded to that RFP pretty confident that other law firms probably weren’t responding, and that it would be engineering and consulting firms we’d be competing against. So we put together a team that included engineers, those with business backgrounds and those with specific consulting experience with stakeholder engagements, and we were successful.”

“It was a really fun project,” she adds, “because we got to act in an interdisciplinary fashion — we all had our areas of expertise for the final report, and we did a workshop with stakeholders that was really well received. It was a great example of working together, using our legal skills to set the framework and then interjecting the technical skills of the engineers.”

The Law Society of Upper Canada, of course, takes a keen interest in the innovative delivery of legal services. But Zizzo Allan passes muster because it understands and underlines the difference between practising law and consulting. For instance, whereas non-lawyer consultants can take client

money up front and deposit it in the bank, Zizzo Allan places all its retainers in a trust account until the work is complete.

“The law society is saying that as long as your clients are under the impression that you’re providing legal services and holding yourself out as a lawyer, and what you’re doing is touching on the law and thus it’s legal advice, they’re happy with that,” says Zizzo, who describes the firm’s work as “more of a strategic advice service.”

She agrees that there are parallels with the construction industry, where a contractor pulls together a team of trades people for a specific job but disbands the team thereafter. “The folks that we bring in on those proposals act as subcontractors to us, so it’s exactly the same model: there’s a contractor in charge who brings in all the service providers to do the aspects that they might not be able to do on their own.”

Flexible arrangements like these appeal to the firm more than the multidisciplinary practice model created by the law society, in which full-time non-lawyer professionals offer services in support of the law practice. Zizzo won’t rule out migrating to a formal MDP down the road but likes the current model. “We don’t say, ‘This engineer will do, because we have him on staff; he might not be the best fit for the project, but he’s what we’ve got.’ We try to find the best fit for the project.”

Zizzo thinks cross-disciplinary collaboration will be key to successful law practices in the future. “That’s the way business thinks,” she says. “They don’t compartmentalize as much as we might think

they do as lawyers. They want to see how all the pieces fit together [into] a package that considers all these other issues.”

She adds. “Interconnections are going to be what solves some of our great problems, not just in climate change, so I would encourage other firms to look at ways that they can do this.”

### Cognition LLP, Toronto

Six years ago, Toronto neighbours Rubsun Ho and Joe Milstone were transitioning from previous corporate counsel and VP-Legal positions. Both originally at large law firms, they were now picking up a growing amount of freelance and consulting work. As their dockets continued to fill up, they decided to join forces and bring in other people to help them get the work done. The result, Cognition LLP, is today one of only a handful of “dispersed” law firms worldwide that offer a different model for business law.

“We found there was a real attraction to the whole idea of growth companies without in-house counsel, as well as companies with legal departments that were constrained on headcount and budget, to be able to have another outlet to get good business-minded, in-house-type legal services,” says Milstone.

“Their only options, until us, were either to hire someone full-time ... or go to the traditional outside firms.”

Ho describes a typical client: “A company that requires legal help with all their day-to-day commercial contacts, supplier agreements, employment matters — everything

### JOE MILSTONE and RUBSUN HO

Cognition LLP, Toronto

**“We operate almost like a just-in-time, on-demand resource for people needing our kinds of services.”**

— Joe Milstone —



MARK STEGEL



**THOMAS PROWSE, Gowlings, founder n2one, Ottawa**

**“I see common sourcing and the underlying phenomenon as changing the way that we create and deliver value.”**

that in-house counsel would normally do — but doesn't have enough of that work to merit hiring a full-time resource. They bring us in on a fractional basis, one or two days a week, and our lawyer becomes their de facto in-house counsel and provides the work as needed.”

If it's busy, he says, the lawyers bill more hours; if it isn't, they may not bill any hours. The arrangement, combined with Cognition's lower overhead and cost structure, allows its lawyers (who usually feature a “best-of-breed” mix of in-house and law firm experience) charge rates that are extremely competitive with those in more traditional firms. Other work comes from companies that have seasonal or project needs.

Milestone compares the Cognition model's impact on the marketplace to the ways in which new business processes changed industries like automotive parts. “We operate almost like a just-in-time, on-demand resource for people needing our kinds of services.”

Neither Milestone nor Ho think their model will replace large law firms, nor do they think it should. “We provide an alternative,” Ho says. “There's obviously still a big ongoing role for existing firms.”

More to the point, they believe that the market is disaggregating. “We get referrals from some of the big firms,” says Ho. “Things that can be done more efficiently should be done more efficiently, and firms have too much overhead or fixed costs to be able to provide the same efficiency we can. But where you do need specialist advice or a team of people to work on certain matters, that's where the value of the big firm really comes through.”

#### **n2one, Ottawa**

Thomas Prowse was working in the law department of Bell Northern Research (later Nortel) in 1994 when open-source software first caught his eye. Very shortly thereafter, open-source became more than just an important technology: It became a significant generator of legal work. “I used to joke that there were two lawyers and 12,000 engineers,” he recalls. “Not only were we badly outnumbered, they had technology on their side.”

The sheer volume of work forced Prowse and his colleagues to develop a scalable legal services delivery model. “We deployed a global non-disclosure agreement system with a paralegal, so that we could, in some sense, mirror the software support model of having different tiers of support. We would encourage engineers and their managers to do as much of the work as possible, so that they'd be their own first line of support. Our paralegal was the second line of support, and if necessary, it would [eventually] come to the lawyers.”

This approach impressed Prowse so much that 16 years later, it forms the backbone of his commitment to a new “common sourcing” model for legal services delivery. “I see common sourcing and the underlying phenomenon as changing the way that we create and deliver value,” he says.

Prowse is as a self-described “partnerpreneur” who divides his time between his technology lawyer role in Gowlings' Kanata Technology Law Office and his start-up company, n2one inc. “n2one” is a play on Cisco GC Mark Chandler's famous lament that professional services were stuck in a “one-to-one” model rather than a “many-to-one” approach.

“From 1994 on, I've been thinking a lot about why legal

information and certain legal services can't be delivered like software, where they would be provided to a large subscriber base at a relatively low initial cost with revenue generated by ongoing support," says Prowse. As the world of Software as a Service (SAAS) becomes more prevalent, he sometimes refers to this development as LAAS — Law as a Service.

Prowse describes this idea as "really a hub-and-spoke model. At the edge of the wheel are multiple clients who are linked to a common resource of [legal] information, with each paying a relatively modest amount to access it. It delivers value to subscribers that is orders of magnitude greater than their cost, [and they're] not wasting their time or their money covering things that would be better done using the on-line service."

Of course, legal information is not legal advice, and most clients need the latter from lawyers — further up the spoke, towards the hub. Those lawyers would be delivering high-end services to better-informed clients at premium rates, because "there's a role for third-line support, a real expert applying the law to the particular facts of the situation," Prowse explains. "Machines are doing what machines do best, and the human element is being reserved for the high-value tasks."

What would a LAAS law firm look like? The on-line information resource, which provides a subscription revenue stream, would be virtual. There would be fewer lawyers to

provide client service ("You're creating a true value pyramid, but to be frank, it means there's probably less room at the top"), but they'd be highly productive and profitable and they'd work with a much broader client base.

Both lawyers and clients would benefit from this approach, Prowse believes. "These types of models should better align the value equation," he says. "It could be fewer hours billed, but at a much higher rate, or it could be a true step towards a basis for value billing."

There's also a social benefit to this approach. Prowse sees the start-up tech sector as facing similar challenges as traditional areas like criminal and family law: clients with very limited knowledge and resources. A common-source law firm would provide access to justice, 24/7 availability, and currency of information well beyond what most law firms provide today. It might not be a good fit

for every type of practice, but it could work for many of them.

"I'm terribly excited about the prospects that these types of models offer to the profession," says Prowse, "but I'll confess that that's very much a client-centric view of the world." It's that view, all of these emerging new models suggest, that will shape the landscape of the legal profession for decades to come. **N**

**Jordan Furlong** is a partner with Edge International Consulting, a senior consultant with Stem Legal Web Enterprises, and an award-winning blogger at Law21 (<http://law21.ca>).

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