

Outsourcing in Law Firm Libraries¹

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INTRODUCTION

On March 31 1995, the Chicago office of Baker & McKenzie fired the entire ten person library staff. The firm announced that it planned to close its library and replace the staff with a library management company² Although these events occurred almost four years ago, and Baker & McKenzie has since hired in-house library staff, they continue to receive attention from law librarians and influence discussions of library management practices and procedures. Moreover, Baker & McKenzie's actions provide important lessons about librarians' perceptions of outsourcing and the pitfalls of entering an outsourcing agreement without considering its impact on the entire law firm.

The library community experienced a sense of déjà vu when, on January 21 1999, Pillsbury Madison & Sutro announced that it was outsourcing its law library in its San Francisco office effective February 8 1999. The firm was "looking at ways to modernize and update" its library operations and "engaged the services of an experienced library management firm" in order to do so. Though the circumstances of Pillsbury's outsourcing differed considerably from the situation at Baker & McKenzie, comparisons were inevitable.

Outsourcing in the law firm environment has been around for many years. Originally, law firms turned to outsourcing to reduce costs for routine copying and clerical functions such as messenger and mail room operations.³ Costs were reduced without any negative impact on overall operations, so with the economic downturn at the beginning of the decade, law firms sought to outsource other firm operations. Larger numbers of law firms are outsourcing more complex functions such as records management, computer network maintenance and accounting.

Traditionally, law firm libraries have also outsourced routine operations. Most large law firm libraries have contracts with vendors for looseleaf filing and temporary employees for special projects. Although outsourcing of library services has a historic presence in law firm libraries and has proven to save time and money, it is a poor and potentially dangerous substitute for the sophisticated legal research and library support services provided by highly skilled and educated law librarians.

¹ Originally posted on LLRX (Law Library Resource Xchange) – www.llrx.com. See later discussion – "Outsourcing a private law library : in defense of the Pillsbury, Madison and Sutro decision" (by Janice Hammond, former Library Manager, San Francisco) – www.llrx.com/features/pms.htm and "California law librarians talk back : a response to outsourcing a private law library" – www.llrx.com/features/pms2.htm

² Anderson, Veronica, "World's largest law firm seeking better synergy" *Crain's Chicago Business*, April 24 1995 at 39

³ Gaschler, Terry, "Trends : More and more firms outsourcing" *ALA News* Mar/Apr 1993 at 9

OUTSOURCING IN THE LAW FIRM ENVIRONMENT

In the 1970s many large law firms “vended out” or “subcontracted” photocopying because of the complexity of reproductive equipment and the lack of skilled personnel needed to maintain the machines.⁴ Beginning in the 1980s small and mid-sized firms began to hire “facilities management” companies to run mail room and facsimile operations in addition to providing copying services. Firms that used these services expected to lower their costs and thus the costs to clients and to maximize the use of firm resources on legal work by eliminating the problems associated with managing support personnel and the maintenance of complex equipment.⁵

During the first half of the 1990s the term “outsourcing” developed along with an expansion of the support service industry. The use of outsourcing has spread to law firms of all sizes allowing all firms to respond to client pressures to reduce costs. Firms were reluctant to bring in-house sophisticated electronic and computer systems, choosing instead to outsource these needs.⁶

The practice of outsourcing professional support services developed from the federal government’s attempt to privatize these types of services. During the Reagan administration the government attempted to increase contracts with the private sector for services traditionally provided by government agencies. Although contracting for tangible goods (i.e. weaponry and supplies) is a practice that dates to the founding of the country, the privatization trend started in the 1980s represented a radical departure from previous management practices.

In 1983, the Office of Management and Budget issued a revised set of guidelines governing contracting with private sector contractors. These new guidelines included outlines for the first attempts at contracting with private vendors for complex library services. Out of these and similar guidelines the term “outsourcing” was coined for use of competitive bidding to select private vendors to provide services in order to reduce operating costs.⁷

Outsourcing in both the federal government and law firms has been promoted as the best solution for the elimination of excess costs incurred by the continuation of spending practices left over from periods of greater prosperity. During the 1980s large law firms experienced unprecedented growth and expansion. During this time, the salaries of partners and associates rose dramatically and lavish spending became the hallmark of big firm culture.

This extravagant attitude ended with the economic downturn in the early 1990s. Baker & McKenzie’s decision to dismiss the library staff exemplified this trend. The firm’s management committee claimed that the decision grew out of attempts to restructure the entire firm.⁸ The rationale and the decision to outsource the library reflect the concerns of

⁴ Woodsworth, Anne and James F Williams, *Managing the Economics of Owning, Leasing, and Contracting Out Information Services*, Aldershot, England : Ashgate, 1993 at 12.

⁵ Kaufman, Monty, “Outsourcing your support needs” *Prac Law Dec* 1994 at 35.

⁶ *Ibid*

⁷ Woodsworth, Anne and James F Williams, *Managing the Economics of Owning, Leasing, and Contracting Out Information Services*, Aldershot, England : Ashgate, 1993 at 15.

⁸ McHugh Sanders, Carol, “Baker & McKenzie trims support staff 10 percent” *Chicago Daily Law Bulletin*, April 3 1995 at 1.

law firms nationwide. Outsourcing of support functions quickly became one of the trendiest law firm management practices of the 1990s.⁹

OUTSOURCING TRENDS

Currently, the American economy is experiencing a period of growth and prosperity, however, memories of the dramatic downturn in the economy during the late 1980s still linger and many management committees believe that their law firm survival depends on downsizing and cost cutting. Because of these concerns, library services, whose contribution is difficult to evaluate from a purely monetary perspective, have become an attractive target for outsourcing

Outsourcing has become such a growth industry that previously sacrosanct aspects of law firms are now subject to outsourcing arrangements. One such area is legal research, once the exclusive domain of young associates.¹⁰

At a typical law firm, an attorney's time is billed by the hour. The result is that either the firm will bill the lawyer's research time at the full hourly rate, in which case the client pays for any inefficiencies resulting from the attorney's inexperience, or the law firm decides to absorb the cost of all or part of the attorney's time. While there are some drawbacks with the traditional system, the client receives high quality legal research because of the safeguards created by supervising attorneys. As firms began to look closely at their costs, the legal research system was closely scrutinized because of high and unpredictable costs, operational inefficiencies and the often repetitive nature of many associates' research efforts

In addition to the growth in outsourcing research, three additional outsourcing trends are developing. These include outsourcing accounting functions, management information systems, and records management. Mid-size and smaller firms (firms between forty and seventy attorneys) are increasingly turning to these types of outsourcing services

The use of records management outsourcing ventures is also developing. Traditionally, administrators drew distinctions between records management and outsourcing messenger and duplicating services.¹¹ Administrators were willing to outsource messenger and copying tasks because these services could be performed without reading the contents of files. However, individuals providing records storage and management services must read the documents to develop a records management scheme. Outsourcing firms are becoming more aggressive in promoting confidentiality agreements and open-ended contracts as solutions to anxieties generated by expanding outsourcing to the more sophisticated areas of law firms' functions.

⁹ Strittmatter, Fred, "Outsourcing allows firms to do what they do best : hiring outside help may save more than just money" *The Legal Intelligencer*, July 15 1994 at 7.

¹⁰ McAdams, Sarah, "Move over: legal research firms battle for clients: with billions at stake, market could boom" *Corporate Legal Times*, Feb 1995 at 16

¹¹ Finkel, Ed, "Firms hire vendors for efficient support without the hassle" *Chicago Lawyer*, Feb 1994 at 56.

THE BAKER & MCKENZIE SITUATION

With the growth in outsourcing in the most sophisticated areas of law firms' practices, it was inevitable that a major law firm would attempt to outsource its library services. What is surprising is the dramatic nature of this development and the potential ramifications for law firms nationwide.

In the fall of 1994, Baker & McKenzie assembled a new management team in the firm's Chicago office charged with improving the coordination of the firm's practice groups.¹² The most significant team decision was to terminate 35 employees, approximately 10% of the Chicago office support staff. Within this 10% was the entire library staff. The firm claimed the decision was made in conjunction with an evaluation conducted by Price Waterhouse. This evaluation determined that Baker & McKenzies's Chicago office was overstaffed with support staff compared to similar law firm operations. Most firms average 1.3 support staff per attorney. Baker & McKenzie's ratio was 50% higher, approximately a 2-1 ratio.¹³ The Price Waterhouse evaluation has not been made public. It is not known whether Price Waterhouse recommended that the in-house library be closed and outsourcing be used.

Baker & McKenzie's decision generated tremendous interest in the nationwide legal community and concern among law librarians. There was wide spread speculation on whether this move signalled a dramatic change of attitude toward law librarians or indicated Baker & McKenzie faced serious financial problems created by the closing of the Los Angeles office and two well-publicized law suits against the firm.

The decision to outsource the Chicago office's library is counter to the current practices of many large and financially secure law firms. The management of most law firms view the library as a high-technology area where the library staff play key roles as information and intelligence gatherers.¹⁴

After the storm of controversy over the Baker & McKenzie decision began to fade, many librarians gave serious thought to the issue of outsourcing. Many of the articles and books that have appeared in the library and business literature since 1995 deliver a mixed message. In the library literature, there is a wealth of information about selective outsourcing: approval plans, specialized cataloging projects, and selected technical services functions. However, the literature on total outsourcing is sparse.

Although the Chicago office of Baker & McKenzie eventually hired a law librarian, speculation about the firm's decision to outsource its library continued for some time after this librarian was hired. The speculation centered on whether the firm's firing of its library staff was a way to remove a highly paid staff member and not a means of redirecting the direction of the library as the firm claimed. Because Baker & McKenzie refused to comment

¹² Nachman, Sherrie F., "Baker & McKenzie to librarians: check out" *The American Lawyer*, May 1995 at 14

¹³ Anderson, Veronica, "World's largest law firm seeks better synergy" *Crain's Chicago Bus.*, Apr. 24, 1995 at 39

¹⁴ Bordeianu, Sever & Benaud, Claire-Lise, "Outsourcing in American libraries: an overview" *Against the Grain*, Nov. 1997 at 1, 16

on its decision to hire a law librarian, the firm left itself open to the idea that the management of the law firm used economic arguments to promote outsourcing when perhaps personnel issues were at the crux of the matter.

PILLSBURY MADISON & SUTRO

On January 21 1999, Pillsbury Madison & Sutro, a San Francisco law firm with 540 attorneys in 9 offices worldwide, announced that it was outsourcing its law library in its San Francisco office effective February 8 1999.¹⁵ The outsourcing contract covers the San Francisco office only and is limited to one year. After the contract expires, it is uncertain what will happen.¹⁶

According to Mary Cranston, chair of the firm, the decision to outsource the library was made because the firm was “looking at ways to modernize and update our San Francisco based library operations and enhance our ability to provide our lawyers and clients with the information they need.”¹⁷ Cranston added that the firm hoped to make the transition in a “timely and efficient manner” and to do so it “engaged the services of an experienced library management firm.”¹⁸

The library management firm that Pillsbury selected was Library Associates, a Los Angeles based firm. Deborah Schwarz, the president of Library Associates said that her firm has reviewed the library’s staffing needs and that three of the six people affected by this decision have been hired by Library Associates and have resumed working at the firm.

It appears that Pillsbury Madison & Sutro learned some valuable lessons from the events surrounding the 1995 Baker & McKenzie decision. Pillsbury’s decision to outsource its San Francisco library was posted on the AALL’s listserv on January 22 1999. Unlike Baker & McKenzie, Pillsbury Madison & Sutro did not publicly criticize its current library staff nor create additional speculation by stating that it wanted to create a “showcase for global telecommunications.”¹⁹ Rather the firm seemed to recognize the importance of legal information and resources to the firm’s lawyers and clients. Pillsbury Madison & Sutro recognized the value of maintaining a core professional staff familiar with the firm’s needs and culture by allowing its current staff to apply for positions available under the outsourcing agreement.

A common sense approach that is based on a long range management plan for the entire firm embraces law librarians as an important part of a firm’s operations. It would be foolish, however, to ignore the advantages offered by vending services to law firms. The strategic use of an outsourcing agency to staff portions of the library’s operations is a prime example of taking advantage of the revolution occurring in law firm hiring and management practices without sacrificing the service offered by librarians.

¹⁵ Posting to Law Library Discussion List (visited January 22, 1999) <ftp://law-lib@ucdavis.edu>

¹⁶ McClintock, Pamela D., “Source subject: law firm staffers are still smarting about an outsourcing decision” *L.A. Daily*, Feb 22 1999 at 5.

¹⁷ Posting to Law Library Discussion List (visited January 22, 1999) <ftp://law-lib@ucdavis.edu>

¹⁸ *Ibid.*

¹⁹ McHugh Sanders, Carol, “Baker & McKenzie trims support staff 10 percent” *Chicago Daily Law Bulletin*, April 3 1995 at 1

CONCLUSION

Law librarianship is a profession with a deep tradition of public service and scholarship and with a proven history of importance to law firm operations. Clearly, this tradition did not matter to Baker & McKenzie's management committee. Baker & McKenzie had obviously embraced a vision of librarianship based on the stereotype that law librarians are simply "keepers of books" who are not prepared to embrace technological advancements. This firm envisioned a virtual library where computer equipment is ubiquitous and the legal professional population has the skill level to locate most information electronically without the assistance of a librarian.

The firm's actions demonstrated a poor understanding of the librarian's role in the unique culture of a large corporate law firm. Librarians provide services that are difficult to gauge by measuring the revenue that results directly from the library's activities. Baker & McKenzie's decision demonstrates a failure to factor in the importance of librarians serving clients in an environment that avoids conflict of interest, maintains confidentiality, and produces high quality legal work.

While it is troubling that a firm of Baker & McKenzie's size and reputation made a decision to eliminate its library, it is time to recognize that in uncertain economic times outsourcing represents an important cost-saving tool. Law firms must consider how outsourcing can be integrated into the structure of a law firm library in order to create a balance between the professional librarians employed by the firm and the outsourcing companies that provide services at reasonable prices.