SUCCESS THROUGH INNOVATION AND KNOWLEDGE MANAGEMENT

Charles B. Baldwin – Ogletree Deakins (Indianapolis)

Lance Lucey – Ogletree Deakins (Phoenix)
Success Through Innovation and Knowledge Management

Presented by
Charles B. Baldwin (Indianapolis)
Lance Lucey (Phoenix)

Innovation Overview

- State of the Industry
- KM and LPM
- Legal Innovation Framework
- In-House Counsel Innovation
- Ogletree Deakins Innovative Resources
- Conclusion
2019 CLOC Survey – State of the Industry

LAW FIRM EVALUATIONS

What do Legal Operations teams want from law firms?

Top Four Responses

1. More creative and alternative pricing arrangements
2. Better project management
3. More internal use of technology
4. Digital access to content, advice, or customized documents

Creative Alternative Pricing
Project Management
Technology
Self-Service Access to Content

What kind of innovation do you want to see from law firms? (1 - 5, low to high priority scale)

Answer | Weighted Average
--- | ---
More creative and alternative pricing arrangements | 3.85
Better project management | 3.79
More internal use of technology | 3.66
Client-facing digital services with self-service access to content, advice, or customized documents | 3.41
Change in business structure/fee model | 3.16
Tech or innovation incubators | 2.87
A dedicated innovation chair or council | 2.59

Alternative Pricing
Project Management
Technology
Self-Service Access to Content
Change in Business Structure
Innovation Incubators
Innovation Chair or Council
2019 Altman Weil – Law Firms in Transition Survey

**Efforts to Increase Efficiency**

Q: Is your firm doing any of the following to increase efficiency of legal service delivery?

- Using technology tools to replace human resources: 48.4%
- Rewarding efficiency and profitability in compensation decisions: 47.5%
- Ongoing project management training and support: 36.2%
- Formal knowledge management program: 33.5%
- Systematic reengineering of work processes: 22.4%
- Using non-law-firm vendors: 18.7%
- None of the above: 17.8%

Efforts to increase efficiency

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**Law Firm Change: Innovation Strategies**

Q: Has your firm done any of the following to make innovation an integral part of firm strategy? Select all that apply.

- Include innovation initiatives in firm strategic plan: 64.1%
- Budget time and/or funds for innovative projects / experiments: 56.1%
- Include innovation initiatives in practice group plans: 47.5%
- Create special projects to test innovative ideas or methods: 43.9%
- Establish a standing committee on innovation / R&D: 32.7%
- Partnership/project venture with a client on innovation efforts: 17.0%
- Partnership/project venture with a technology company to better serve clients: 16.1%
- Hire an Innovation Director / Assign responsibilities to a current staff member: 16.1%

Efforts to make innovation part of firm strategy
Legal Innovation Framework

KM Defined

People
Knowledge
Technology
Process
Key innovation ingredients

1. Voice of the client
2. Management support
3. Resources to experiment and test ideas

Artificial Intelligence
AI Includes Multiple Technologies


Many Legal AI Options

Credit: [LawGeeks](https://www.lawgeeks.com/buyersguide)
In-House Counsel Innovation

In-House Innovation by Decade

- 1980: Convergence
- 1990: e-Billing, law firm alternatives (e.g., LPO)
- 2000: AFA, metrics, Legal Ops
- 2010: Build a serious law department
The Rapid Rise of Legal Operations

- Corporate Legal Operations Consortium (CLOC) and Association of Corporate Counsel (ACC) have organized LDO groups

- ACC legal ops group has 300 corporate members
Firm Evaluation Criteria

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
</table>
| Understand client's needs | - Understands business, economic objectives as well as internal case strategies  
- Understands the industry, regulatory issues, or your business  
- Understands your firm's priorities and risk tolerance |
| Expertise         | - Possesses knowledge & expertise regarding legal matters, substantive laws, etc.  
- Proactively provides information related to proposed legislation or new case law  
- Proactively provides training, seminars, newsletters on industry information regarding specific topic |
| Efficiency        | - Appropriately staffs issue  
- Appropriately allocates time for specific tasks & overall matter management  
- Suggests available technologies to minimize costs  
- Proactively identifies & recommends cost-saving solutions or alternative billing arrangements  
- Proactively utilizes technology, billing codes, Matter Management & billing capabilities  
- Avoids duplication of effort |
| Responsiveness    | - Provides timely responses to inquiries & communications, adheres to deadlines  
- Provides clear and timely advice, business friendly summaries & recommendations  
- Communications written in plain English  
- Delivers work within appropriate timeframe  
- Meets court & other external deadlines  
- Quick to respond to what is being done (e.g., provides timely status reports)  
- Is readily accessible & responsive to phone calls & emails  
- Proactively provides information when deadlines may occur |
| Predictive Accuracy | - Provides accurate & reliable results  
- Provides value by generating insights  
- Provides accurate estimates of work & fees, once scope is defined  
- Proactively monitors key metrics & manages scope, where we to proceed  
- Provides estimates on significant revenue & profit & services |
| Effectiveness      | - Provides accurate & innovative solutions, including patents  
- Works to achieve work use maximization assessment, where possible  
- Proactively monitors issues in the marketplace and professional network  
- Develops constructive and appropriate relationships with opposing counsel, court & regulatory agencies |
| Internal Comments | Use this box to include additional comments regarding the firm’s level of service or feedback regarding any individual at the firm. If you feedback on the firm is based solely on your interaction with one attorney or staff member due to particular staffing model or overhead, please indicate this in the “Internal Comments” field and also include the name of the attorney or staff member who handled the firm. Comments will be integrated into the overall feedback to the firm. Presenting the day-to-day relationships you have with the firm and specific individual. |

Law Department Management – Efficiency

In the last 12 months, have you done any of the following to increase your law department’s efficiency in its delivery of legal services? (Check all that apply.)

- Greater use of technology tools
- Greater use of paralegals and other paraprofessionals
- Internal restructuring / reorganization of resources
- Redesign workflow processes
- Collection and analysis of management metrics
- Knowledge management efforts
- Project management methods
- Project staffing with contract / temporary lawyers
- Outsourcing to non-law-firm vendors
- Hired a Law Department Operations Manager
- None

Efficiency tactics
Ogletree Deakins
Innovative Resources

Clientlink Collaboration Platform

One place for all of your matter information.
Custom tailored for you.
Richmond v. Uber Techs., Inc.

Granting defendant’s motion to compel arbitration and holding that the December 2013 Agreement dictated that the arbitrator was responsible for determining the threshold issue of whether plaintiff was an employee or an independent contractor.

As an additional matter, this Court notes that the NLRA applies only to an “employee,” which the NLRA defines to “not include ... any individual having the status of an independent contractor.” 29 U.S.C. § 152(1). The parties’ June 2014 Agreement provides that “[y]ou represent that you are an independent contractor engaged in the independent business of providing the transportation services described in this Agreement,” ECF No. 11-2 at 16 (emphasis added), and that November 2014 Agreement provides that “the relationship between the parties under this Agreement is solely that of independent contractor.” Id. at 43 (emphasis added). Richmond argues that Uber misclassifies him as an “independent contractor” — ECF No. 1 at ¶ 14. However, pursuant to the Arbitration Provision, the arbitrator is responsible for deciding the threshold issue of whether Richmond’s relationship with Uber is that of an employee or an independent contractor.

See ECF No. 13-2 at 26, 47 (stating that “this Arbitration Provision only applies, without limitation, to ... disputes arising out of or related to your relationship with the Company”).
Granting conditional certification where the allegations in the amended complaint were supported by two affidavits

As indicated above, Mr. Gaston states that he believes there are many pumpers employed by Encana in the United States who have been improperly designated as independent contractors. Gaston Aff. Exhibit A, ¶ 20. Mr. Gaston is not qualified to opine whether a person is an "independent contractor" as a matter of law. However, Mr. Gaston can describe the work he did, the supervision he received, and the obligations that were imposed upon him as a pumper working for Encana/Mesa. The Court earlier concluded that he had "alleged facts upon which a trier of fact could conclude that he was employed jointly by Mesa and Encana." Order, April 8, 2011 [doc. 65] at 3.

Stallings v. Antero Res. Corp.

Plaintiff then initiated this matter, asserting violations of section 7 of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207, against Antero. See generally Plaintiff’s Interrogatory responses. Defendant improperly classifies SCRs and PAs as "independent contractors" to avoid paying such workers overtime compensation for hours worked in excess of forty hours per week. See id., at...
Daughtery v. Encana Oil & Gas (Usa), Inc. 608 F. Supp. 2d 1227 (D. Colo. 2011) 3 cited 1 time

Granting conditional certification where the allegations in the amended complaint were supported by two affidavits

As indicated above, Mr. Gaston states that he believes that there are many pumpers employed by Encana in the United States who have been improperly designated as "independent contractors." Gaston Aff. ¶ 30. Mr. Gaston is not qualified to opine whether a person is an "independent contractor" as a matter of law. However, Mr. Gaston can describe the work he did, the supervision he received, and the obligations that were imposed upon him as a pumper working for Encana/Mesa. The Court earlier concluded that he had "alleged facts upon which a trier of fact could conclude that he was employed jointly by Mesa and Encana." Order, April 8, 2011 [document #53] at 3.

Stalling v. Antero Res. Corp. 673 F. Supp. 2d 1220 (D. Colo. 2010) 1 cited 1 time

Plaintiff then initiated this matter, asserting violations of section 7 of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 207, against Antero. See generally Plaintiff alleges Defendant improperly classifies SCOs and PAs as independent contractors to avoid paying such workers overtime compensation for hours worked in excess of forty hours per week. See id. at...
State and Local Sick Leave Laws

- Statewide sick leave laws (no local laws)
- Local sick leave laws only
- Local and statewide sick leave laws
- States that prohibit local sick leave laws
- States with statewide only sick leave laws
- States with local and statewide sick leave laws
- Future local and statewide laws

*Note: All information is based on research as of the publication date.
**Updated by: [Last Updated Date]
***[Additional Notes or Links]
Ogletree Deakins IntelliCase

Tracking, Trending, and Managing Agency Discrimination Charges
LegalMation

Artificial Intelligence for Drafting Answers and Discovery Documents

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LegalMation leverages the power of artificial intelligence to transform the practice of law.

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  - Uploaded Complaint
    - Answer
    - Discovery Requests

- Discovery Analysis
  - Uploaded Discovery Requests
    - Response Subs
    - Draft Objections
LegalMation processes and analyzes the complaint
All documents are automatically drafted by LegalMation based on the scanned and analyzed PDF complaint. Documents are in draft form and need to be reviewed and revised. Automated drafting can save up to 6-8 hours of work.
Innovative
Collaborative
Customized
Cost-Effective

Benefits of Ogletree Deakins Advantage

• Dedicated Team
• Flexible Budgeting and Certainty
• Legal Project Management
• Knowledge Management
• Client Education Programs
• Innovation
• Experience
• Extend Your Legal Department
Benchmarking

CLASS ACTION AND SINGLE PLAINTIFF EMPLOYMENT RELATED LAWSUITS

<table>
<thead>
<tr>
<th>Year</th>
<th>Single Plaintiff</th>
<th>Class Actions</th>
</tr>
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<tbody>
<tr>
<td>2010</td>
<td>118</td>
<td>20</td>
</tr>
<tr>
<td>2009</td>
<td>89</td>
<td>19</td>
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<td>2008</td>
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<td>6</td>
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<td>2005</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>2004</td>
<td>1</td>
<td>4</td>
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</table>

*Data gathered for major states and federal employment litigation from Courthouse News, Bloomberg, LexisNexis, Westlaw, and various state court dockets databases.*

Legal Project Management
Legal Project Management is Client Focused

The Goal: Client Service & Value

The Way: Efficiency, Cost Effectiveness, and Discipline

The Result: Happy Clients

How LPM Made My Job Manageable

Observations from 9 years as in-house and general counsel

- Compare RFPs
- Assess firm’s fit
- Assess firm’s understanding of business model
- Understand firm’s strategy
- Access costs and status
- Present documentation for major matters
A commitment to:

- Open communication
- Delivering consistent work product
- Handling matters in the most efficient and cost-effective manner

Matter Initiation – Scope & Define

Matter Planning – Plan & Budget

Matter Execution – Execute & Monitor

Matter Closure – Evaluate & Improve
Prio LPM Software

- Customized to Meet OD Requirements
- Easily Plan, Budget, and Manage Activities
- Identify, Assess, and Convey Variables and Risk
- Update Tasks and Highlight Outstanding Matters
Prio LPM Software – Sample Budget Report

<table>
<thead>
<tr>
<th>Phases</th>
<th>Budgeted Hours</th>
<th>Budgeted Fees</th>
<th>Worked Hours</th>
<th>Worked Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>L100 Case Investigation and Assessment</td>
<td>88</td>
<td>$20,870.00</td>
<td>36.1</td>
<td>$7,482.50</td>
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<tr>
<td>L200 Respond to the Complaint and Pre-Trial Motions</td>
<td>105</td>
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<td>5.1</td>
<td>$1,121.50</td>
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<td>L300 Discovery</td>
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<td>$1,373.00</td>
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<td>L400 Trial Preparation and Trial</td>
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<td>$49,000.00</td>
<td>0</td>
<td>$0.00</td>
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**Internal Tools**
### Workplace Violence

<table>
<thead>
<tr>
<th>Description</th>
<th>Question</th>
<th>Request Date</th>
<th>Conclusion provided to Client</th>
<th>Response Date</th>
<th>Research Sources/Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>An employee (Anon) threatened by Smoak Global's Terry K. facility managers</td>
<td>If Smoak Global pays a $2000 signing bonus to new employees, must the bonus be included in the regular rate of pay for overtime purposes?</td>
<td>3/2/2012</td>
<td>Yes. Signing bonuses must be included in the regular rate, and employees must be paid overtime on the bonus. ODJ regulations specifically mention such bonuses. For example, any bonus which is promised to employees upon hiring or which is the result of collective bargaining would not be excluded from the regular rate under this provision of the Act. 25 C.F.R. § 778.35(a). The method for calculating overtime in a bonus is described in 25 C.F.R. § 778.35(a).</td>
<td>3/2/2012</td>
<td>See 29 C.F.R. § 778.211, see also 25 C.F.R. § 778.229.</td>
</tr>
<tr>
<td>An employee (Anon) threatened by Smoak Global's Terry K. facility managers</td>
<td>What is the legality of prohibiting weapons in the workplace provided it is conspicuously posted?</td>
<td>3/2/2012</td>
<td>Black Answer: Presently, TN law permits employees to keep weapons in the workplace provided it is conspicuously posted. (TCA 39-17-116.) However, pending controversial legislation (SB2950/HR3033 and SB3060/HR3060) would force private property owners to allow lawfully carried firearms to be carried onto their premises (parking lots), whether or not the property owner objects, and whether or not the person has the right to be on the premises. If passed into law, the proposed bills therefore would make it illegal for private property owners, including employers, to have or enforce a policy restricting personnel carrying firearms in vehicles parked at work.</td>
<td>3/2/2012</td>
<td>See TCA Section 59-17-116, as well as SB2950/HR3033 and SB3060/HR3060, as well as Chamber of Commerce statement on pending legislation.</td>
</tr>
</tbody>
</table>

### Ask KARLOS

2019 WINNER

ILTA's Distinguished Peer Awards

10TH ANNUAL
Knowledge
And
Resource
Locator for
Ogletree
Systems
Success Through Innovation and Knowledge Management

Presented by
Charles B. Baldwin (Indianapolis)
Lance Lucey (Phoenix)
Charles B. Baldwin
Managing Director || Indianapolis

Mr. Baldwin has over 25 years of experience as an advocate for management in all aspects of labor and employment law matters. He devotes his practice to representing employers involving: EEO, ERISA, and wrongful discharge claims; labor arbitrations; NLRB proceedings; wage and hour disputes; union avoidance; employment contracts; non-competition/trade secret disputes; and, class and collective actions. Mr. Baldwin frequently consults with and trains employees on employment practices and policies, union avoidance and litigation avoidance.

As a trial lawyer, Mr. Baldwin served as lead counsel in defending employers at trial and on appeal in class/collective actions, multi-plaintiff and individual lawsuits arising out of every conceivable type of workplace dispute. AIAM and AAMA selected him as Counsel for Amici Curiae in a case of first impression under the Americans with Disabilities Act.

For many years, Mr. Baldwin served as the Seventh Circuit Editor for the "Employment & Labor Relations Litigation Newsletter" of the ABA. He was a contributing author for the first and second edition of "Model Jury Instructions: Employment Litigation," published by the Litigation Section of the ABA.

The Indiana Chamber selected Mr. Baldwin to co-author: "Indiana Guide to Preventing Workplace Harassment;" "Interviewing Guide: Designed to Assist Indiana Employers with Hiring and Retaining Employees;" and, "Managing Employees Leaves of Absence." Mr. Baldwin was a contributing editor to the Indiana Chambers' newsletter HR Notes from 2005 to 2011.

Comments of others, particularly clients, best describe Mr. Baldwin's legal skills and experiences. In its 2006 Client Guide, Chambers USA described Charles Baldwin as: “a successful litigator . . . experienced in acting as national counsel in employment litigation cases.” In its 2007 Client Guide, Chambers USA, praised Mr. Baldwin for his: "responsiveness and commitment." In its 2008 Client Guide, Chambers USA stated: "his role as counselor to his clients also comes highly rated." In its 2009 Client Guide, Chambers USA described Chuck Baldwin by stating, "clients admire his "calm approach, great knowledge and true dedication." In its 2010 Client Guide, Chambers USA reported: "Charles Baldwin is renowned for his labor work, with clients commenting that "he has vast knowledge of the law and gives us great guidance;" "He is very intelligent and knowledgeable on the subject, and is always successful."

Chuck Baldwin received an "Excellent" rating from the Association of Corporate Counsel (ACC). Clients described Mr. Baldwin as follows in the ACC Value Index: “practical, efficient and business-oriented. He understood what we were trying to accomplish and he helped us get there. Chuck does excellent work.” Mr. Baldwin has been recognized for
innovation in legal project management by a number of prestigious publications and organizations, including the College of Law Practice Management and Association of Corporate Counsel.

The Indiana Chamber of Commerce chose Mr. Baldwin as Volunteer of the Year for 2001 and in 2000 was appointed to the Indiana Chamber's Board of Directors. Chambers USA Leading Business Lawyers in the USA selected Mr. Baldwin as one of the top labor and employment lawyers in Indiana (2004 to present); Mr. Baldwin is also honored by the following organizations: Best Lawyers in America (2007 to present), Indiana Super Lawyers (2004 to present) and The International Who's Who of Management Labour & Employment Lawyers (2010 to present). In 2009, Mr. Baldwin was inducted into the College of Labor and Employment Lawyers, a non-profit professional association honoring the leading lawyers nationwide in the practice of labor and employment law.
Lance Lucey serves as Ogletree’s Senior Manager of Legal Project Management. Prior to joining Ogletree, Lance was in-house counsel for nine years, the last five serving as General Counsel for two companies. While serving as in-house counsel in a generalist role, Lance led the legal due diligence process for two of the companies he represented as they gained private equity investment. Lance practiced as a transactional attorney for six years with two firms before accepting his first in-house counsel role. A firm believer in project management, Lance utilized legal project management as a means to manage his company’s legal operations while serving as General Counsel.