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2018 Law Firm Innovators

The Legal introduces the 2018 Law Firm Innovators.

By **The Legal Intelligencer** | June 19, 2018

Berger & Montague

Sometimes if you want something done right, you need to do it yourself. Berger & Montague knows this. So when it came time to update the firm's technological infrastructure and find a more efficient way to work to with its electronic files, it took matters into its own hands, creating Kaleidoscope, which the firm describes as "a proprietary, state-of-the-art document management and mining for litigation platform."

Kaleidoscope allows the firm's attorneys to easily create, upload, search, store, and work with millions of pages of documents electronically. In addition to being utilized within the firm, it also provides hosting and litigation support services in cases where the firm is co-counsel or is not directly involved.

Dr. Jon Berger, CIO



Litigation Cover 2018



Jon Berger,
CIO

Necessity is the mother of invention. What need were you inspired to address with your innovation?

Thirty years ago, the crash of an antiquated word processing system during a critical legal filing brought modern computing to Berger & Montague. In response to the crash – and over a weekend David Berger, founder of the firm, authorized the establishment of a network of twenty model 286 DOS computers, a 386 server using Word Perfect word processing software. Training classes began immediately, as did an ongoing process (continuing to this day) of in-house development of multiple applications for the B&M’s practice ranging from document management to litigation support in complex litigation spanning 13 separate practice areas and based on free, publicly available software.

Innovation within a law firm requires a strong vision and a lot of coordination internally. How was your firm able to turn a vision into a reality?

From the start, the leadership of the firm including, David Berger, H. Laddie Montague Jr., and Daniel Berger had the essential insight to support a core group of programmers and administrators whose membership has remained constant over the years. This team has pursued and continues to see a vision of an integrated DMS and LSS information system backed by the newest advances in machine learning to enhance all aspects of the firm’s practice. In the past five years alone, this capability has also earned the firm millions in fees from labor, hosting, and application development. In addition, it has saved millions in what otherwise would have been out-sourced costs for outside vendors.

Kaleidoscope, the integrated DMS and LSS information system used by the firm and its co-counsel and inaugurated in 2010, has evolved through several server changes and more than 370 window and web client versions in response to user needs and the demands of litigation. The system is a hybrid that uses the cloud and the “colo” for processing and storage. While feature-rich, the main immediate attraction has always

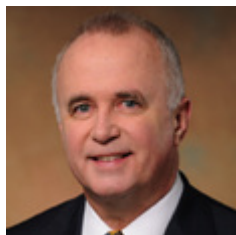
been the easy viewing of images, text, coding, and native applications right next to each other in a customizable work space. Users from other firms who routinely use third party vendor systems cheer the ease of use and look forward to their assignments on Kaleidoscope.

In an increasingly competitive legal market, what's one of the biggest challenges law firms face today?

In 2012, the core IT group initiated consultations with data scientists at Temple University and the University of Maryland on how to build intelligent machine learning systems tailored to e-discovery. Kaleidoscope features a seamless integration of term searching and continuous active learning to build, test, and validate models. The active learning uses ensemble logistic regression and Deep Learning through neural nets. The approach is used for issue analysis as well as doc type finding and auto coding. It has been adapted for the problems of document unitization, the adequacy of discovery production, models of privilege and relevance, the coding of scientific reports for contaminated sites, as well as the interpretation of images for the detection of handwriting, spreadsheets, maps, graphs, and charts.

Conversely, name one opportunity available to law firms in the current climate.

Kaleidoscope and Berger & Montague are ideally positioned to profit from the rapidly changing demands of e-discovery. Our team has the capability to change the system to meet unexpected needs and litigation specialty processing. We host at the lowest costs in the field and with the smartest system. We welcome any inquires as to how we may help solve your e-discovery problems.



Burns White

Burns White was an innovator of alternative fee arrangements long before they became a trend in the broader legal industry. The idea dates back to the beginnings of the firm, when its founders sought to

David B.

White, Burns White *devise a way to serve a high-volume client in a manner that maximized efficiency, consistency and overall value.*

In 1987, when Burns White was established, the firm was handling up to 50 railroad litigation cases per week. The high volume posed a challenge for the client, who faced a continuous stream of bills for ongoing litigation expenses. In an effort to afford the client more stability and predictability, Burns White began estimating labor costs and legal processes. This fee structure resulted in cost predictability and shared risks, strengthening the firm's relationship with its client and often leading to additional work. The strategy has evolved over the years and has since expanded to benefit many of the firm's clients.

David B. White, executive committee member

Necessity is the mother of invention. What need were you inspired to address with your innovation?

The inspiration for our Alternative Fee Arrangement structure was—and continues to be—our desire to tailor our offerings to support our clients' needs and business models. We understood early on, that to secure long-term relationships, it was important to listen, appreciate, and then respond to each client with a creative solution that addressed or resolved their specific business challenges.

Innovation within a law firm requires a strong vision and a lot of coordination internally. How was your firm able to turn a vision into a reality?

Layers of bureaucracy fueled by indecision can negatively affect a firm's ability to turn vision into reality. At Burns White, we understand the importance of offering timely solutions. Our capacity to identify the problem, articulate a solution, and minimize any bureaucracy that limits our ability to deliver, helps drive our success. We adopted this approach when we were a five-attorney firm, and continue to operate this way today.

In an increasingly competitive legal market, what's one of the biggest challenges law firms face today?

As firms merge and grow through acquisition, differentiation among law firms continues to be a significant challenge. Firms used to be very specialized—known for expertise in specific industries. Today, this business model is rarely effective. Successful firms offer multiple practice areas, but clearly distinguishing one firm from another in potential clients' minds can be challenging.

Another significant challenge that law firms face is remaining profitable while providing clients with cost-effective, expert legal service. Our Alternative Fee Arrangement structures help to differentiate the firm, and allow us to partner with clients to build business relationships that offer a level of cost certainty. Depending on a client's business objectives, we have pricing solutions that are predictable and minimize financial risk for both the client and the firm.

Conversely, name one opportunity available to law firms in the current climate.

Diversification is one opportunity that all firms should leverage—the diversification of both legal services offered and workforce composition. Client needs are always changing and often align with technical advances, globalization, and industry trends. Anticipating these needs and identifying the “next big thing” is one way for firms to remain relevant and successful. Additionally, diversity in the legal workforce is also an opportunity for growth. Qualified candidates with different backgrounds enrich a firm's culture by reflecting ever-changing social norms, and challenge conventional and traditional perspectives.



Kevin Dooley

Kevin Dooley *Kent Conrad O'Brien*

Kent has emerged within the firm and legal profession as a leader in developing and regularly using alternative fee arrangements. In the last four to five years, Conrad O'Brien has expanded its use of AFAs as clients' interest in them has increased. But rather than wait for clients

Kent, Conrad O'Brien *to broach the topic, Kent proactively raises it with them, employing AFAs as an effective marketing tool at a time when in-house legal departments are more mindful than ever of their legal spend and the value they're getting from outside counsel.*

Many of the fee arrangements Kent has adopted use hourly billing as a component, but he frequently uses less conventional arrangements that are highly tailored to meet the needs of a specific client. In many of the arrangements, the firm shares risk with the client, so Kent works closely with the client and the financial department at Conrad O'Brien to ensure the arrangement is optimal for both the client and the firm.

Necessity is the mother of invention. What need were you inspired to address with your innovation?

As the legal landscape and traditional law firm models have changed, clients' interests in an alternative to hourly billing has increased. As clients look to redefine their billing arrangements with their legal providers, I have tried to propose alternatives and find creative solutions that fit both the clients' wishes and fulfill the firm's needs. Some of my cases have been well-suited to use alternative fee arrangements and so, together with clients' interests and the case needs, I began learning more about various fee structures and proactively raising with clients the idea of an arrangement other than straight hourly billing. My approach in using fee agreements as a marketing tool came as a natural result as having open conversation with clients about various billing options prior to the start of engagements. Proactively raising the topic of billing arrangements has yielded a more productive and open client relationship.

Innovation within a law firm requires a strong vision and a lot of coordination internally. How was your firm able to turn a vision into a reality?

Conrad O'Brien's flexibility has been crucial to the success of using different fee structures. The firm first started experimenting with alternative billing arrangements in the early 2000s through some of the more senior partners, including Jack Guernsey,

with whom I still work with to help craft optimal agreements. The support and acceptance of alternative fees has been crucial and allowed the firm to adapt various arrangements to client and firm needs, and build our database of fee arrangements at the firm. Also important is the freedom to make these arrangements and the understanding of my partners in instances where these have not worked out to the firm's advantage—I think everyone appreciates the value in taking calculated risks and learning lessons when those risks lead to a less than optimal result.

In an increasingly competitive legal market, what's one of the biggest challenges law firms face today?

At the top of my list: Recruiting and developing talented lawyers who are also attuned to the business side of legal practice, i.e., the firm as a business and our clients' business needs.

Conversely, name one opportunity available to law firms in the current climate.

There is a tremendous opportunity to mold a legal practice to the changing marketplace and break free from traditional models of delivering legal service that may have inherent inefficiencies because aspects of that model are outdated. This is particularly true in mid-size firms that have the flexibility to make significant internal changes quickly, especially when it comes to professional (legal and business) staffing.

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