

# Legal Ops Professionals Weigh In

*Higher level of analysis in law departments drives shifts in the industry*

**By David Hechler**

The ambitious webinar hosted by Metropolitan Corporate Counsel on September 7 took on four big topics that were filtered through surveys primarily directed at legal operations departments. The topics were information security; analytics and artificial intelligence (AI); cloud adoption; and discovery and content management.

Hal Marcus, OpenText Discovery's director of product marketing, moderated the session, and he brought in three guests. Ari Kaplan, a legal industry analyst who runs Ari Kaplan Advisors, has surveyed legal ops departments in recent years. He drew on a survey he did in 2015 and another he added this year. Sandwiched between them was his 2016 survey, which queried law firm partners with e-discovery responsibilities. The surveys supplied the data that underpinned the discussion.

The central question was how views have changed during the past three years on topics that occupy many lawyers, whether they work in firms or in-house. Fittingly, Marcus brought in David Stanton, a litigation partner in the Los Angeles office

of Pillsbury Winthrop Shaw Pittman, who heads its information law and electronic discovery practice team, and Sharika de Freitas, who manages e-discovery at Viacom. (The panelists noted that their views did not necessarily reflect those of their employers.)

## Information Security

Some of the findings were predictable. In 2015, 72 percent of the ops directors had concerns about the security of discovery data. Given the explosion of breach cases in the headlines since then, Marcus noted that it wasn't surprising that 88 percent of the law firm partners shared those concerns last year, or that this year 89 percent of the ops directors did.

Next came an interesting disconnect. Despite their concerns, very few law departments audit the technological competence of their outside counsel, according to the surveys. The 2015 and 2017 figures were confirmed by the law firm

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partners. Only 16 percent of them said they experienced audits.

But that may be changing. Pillsbury's Stanton

said that he has seen "a significant number of very mature organizations" in finance and tech conduct "fairly exhaustive audits." It's not happening everywhere. "It seems to be varied," he said, "but it's picking up." Kaplan noted that 37 percent of this year's respondents said they plan to focus on this area in the coming year. He also said that law departments haven't pressed harder because, as several in-house respondents candidly acknowledged, they haven't been burned yet by outside counsel's lax security, and a big breach could quickly change attitudes.

Those sentiments rang true for Viacom's de Freitas. Industries tend to adopt a herd mentality: "Hey, it didn't happen to us, so we're safe." On the other hand, she continued, "if one of your competitors has that happen to them, it basically lets us all know that we're all on the front lines."

## The Cost and Value of Technology

The next topic was AI and analytics, and Marcus pointed to the huge gap in attitudes between legal ops directors in 2015 and law firm partners the following year. The ops respondents overwhelmingly (92 percent) said they would expand their use of discovery analytics – tools to support data reduction, fact finding, and faster review – if cost were not an issue. Only 52 percent of law firm partners agreed. Marcus noted that the question left room for a variety of interpretations, and the ops response to the same question this year was down to 62 percent. He asked de Freitas what she made of these numbers.

"I think it might be mostly indicative of what software is in the company's tool sets when they're responding to this," she said, "or what kind of partnership they have with service providers to secure access to discovery analytics without incremental costs. Because normally if you've invested in legal ops, you've probably also invested in technology."

Stanton's take on the law firm numbers was that they likely reflect the specialization that's developed in this field. The firms that are taking on

*Continued on page 52*



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**Ari Kaplan**, founder of Ari Kaplan Advisors, is an attorney and legal industry analyst. He is also the author of two books: *The Opportunity Maker: Strategies for Inspiring Your Legal Career Through Creative Networking and Business Development* (Thomson-West, 2008) and *Reinventing Professional Services: Building Your Business in the Digital Marketplace* (Wiley, 2011). He can be reached at [ari@arikaplanadvisors.com](mailto:ari@arikaplanadvisors.com).



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