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# HIGH PERFORMANCE COUNSEL

# THE #BAKERS18. IT'S LIKE OCEAN'S ELEVEN. ONLY MUCH BETTER.



**HIGH  
PERFORMANCE  
COUNSEL**

#BakersDozen  
**David T Kinnear**

 **CEO & PUBLISHER**  
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You couldn't miss the sound of the starting pistol in 2017 unless you locked yourself in cave and pulled a pillow around your ears. After years of polite chatter about technology and innovation in law, it simply became more visible and tangible, read: "actual". Several of the buy-side organizations and General Counsel to whom we spoke during the year described how the needle moved from "talk" to "walk". As they noted, when you start bumping into innovation, when you start seeing examples of what it could do for you in your office – it's different. It's more personal. And it's here.

2018 will be a landmark year in the legal industry. We see a rising tide and fabulous opportunity for both technology-enabled law firms and alternative legal services providers. Like Ford, we affirm that efficient legal processes are essential to progress but, like Ford also, we anticipate fundamentally new products coming to market.

2018 will be the year of "digital product portfolios". One or two examples broke out of the nursery when nanny wasn't watching last year but we think this area of the market moves beyond nascent very quickly now. The genie is out of the bottle on the strategic opportunity (and commercial necessity) for offering this. In turn, this frames our more aggressive view on expected newcomers in the marketplace, including non-typical large organizations that are highly skilled in managing, selling and distributing digital material. How's your Kindle or iPad doing these days?

In 2018 we identify a new, diverse and exciting range of professional opportunities for those with technology experience and accredited qualifications as the industry warms to the defining role that technology will play in the future of the legal sector. This is reflected in our exciting media partnership with ACEDS. We also see overtones of prior ITO, HRO and BPO chapters in the road ahead for the sector – with the competition that will inevitably ensue.

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Three thoughts you may care to ponder – then dive into the richest mine of top legal thought-leadership this side of nirvana – courtesy of the soon-to-be-infamous #Bakers18:

**1** First, in its quest for “better, faster, cheaper” the sector has already seen a marked shift away from law firm labor toward hiring and deployment of in-house counsel for routine matters. However, on economics alone, it's hard to conclude that this is a permanent solution to the issue-in-motion, that is the bottom line cost of qualified labor versus tech or alternative labor models. Just like HRO, BPO and ITO days, figure this is a resting spot on a longer journey toward alternative sourcing of legal labor via third party providers and via on demand technologies. No question, look for an increase in “alternative labor” pitches this year.

**2** Second, the ascent of tech and the strategic value of tech-qualified professionals will take many by surprise. Tech has suffered from being relegated to being “below stairs” staff in Downton Abbey. That's over. The commercial reality of business driven around tech will provide an alarm call for many and a fresh career opportunity for even more. The ascent of technology, especially the examples of Relativity and Clio, clearly identifies that technology can be harnessed and leveraged at scale in this sector. For years, people pointed to its flaws as evidence it would never work. But it does. And that's the point.

**3** Third, law will be shaken from its relative complacency by new faces. The #1 question I ask myself as I quietly tour various events each year is “Who is not here?” It can be far more revealing than simply who is. The left field in law is packed with surprises, including many organizations yet to make their legal debut – service providers, technology companies etc. Consider the opportunity for “non-law” companies, well-funded, tech-enabled to enter the field of legal operations, data management etc. Consider the role of enterprise software players to enter the field of contract management etc. If you trust your payroll company to manage your payroll and your accounting company to manage your finances, don't be surprised when they offer to manage your contracts.

In 2017, we had great fun with our #BakersDozen interview series and we will be having lots more fun in '18. In these interviews, we asked individuals to be candid. To speak from the heart about their experience and perspective, about failure and success in equal measure – and about the direction of the legal industry. So we decided to return to the #Bakers theme for our peeky-boo look behind the curtain into '18. We asked just a very discreet handful of individuals – representing some of the best minds in modern law – to share a few thoughts on what they each see ahead.

This, then, is the #Bakers18. Un-filtered, un-edited, un-matched, un-mistakable, un-believable amazing. We invite you to sit back and read these poignant perspectives on the year ahead.

Then, strap in. '18 will not be just another year or just any old anything. It's going to be a wild ride.

yours aye,

David Kinnear  
CEO & Publisher  
High Performance Counsel  
New York

## Steph Corey



"In 2018, we'll see other types of professionals taking more strategic roles in the legal industry, inundation of AI with it working its way into baseline legal tools and lawyers moving up the value chain with the automation of lower value work."

## Ken Grady



"One legal services organization will re-design its way of doing business around design thinking as the legal industry's action leader. This is more than a semantic differentiation. It starts with the premise that the organization has purposes beyond generating sufficient cash flow for its owners. Think of this legal services organization as the

equivalent of a Delaware public benefit corporation. It serves the people, the community, and public interests in addition to owner interests. For routine, ordinary, legal work, it will use tools available today (e.g., process improvement) to provide its services at the lowest cost to the organization. It will charge its clients a reasonable profit margin, on a fixed fee basis, for that low-cost service. The fun comes in solving complex client problems. It will attack them using design thinking to get to the root issues challenging the client. Using the law plus thinking from domains such as business, sociology, psychology, it will work with the client on bespoke solutions to the problems. The goal of those solutions goes beyond technical risk management. It is to provide clients with a competitive edge. This legal services organization puts routine issues in their place and charges routine prices for routine work. It is the prototype for future legal services organizations. This is the type of organization many of us dreamt of joining as we left law school. Yet so far, it doesn't exist. This organization will draw talented students back to legal careers, delight clients, and rejuvenate the practice of law."

## Sonya Olds Som



"As the new year begins, we look back on the previous year and consider the impact of global events on the legal industry. 2017 was a year of disruption both politically and economically that has resulted in much unpredictability. What does 2018 hold?"

In Major, Lindsey & Africa's 2018 Industry Outlook, we look at how 2017 has

changed the legal industry and make our predictions of what is to come for law firms and in-house legal teams alike in 2018. You can read our report here: <https://www.mlaglobal.com/publications/articles/2018-industry-outlook>

In my specific role as a partner in Major, Lindsey & Africa's General Counsel/In-House Counsel Recruiting Practice Group, focusing on counseling, relationship building, marketing and business development with a special emphasis on and passion for diversity and inclusion in the legal profession, I'd like to offer the following "hot take" on 2018: While AI, Legal Operations, Cybersecurity and other technological and operational advancements and concerns continue to be increasingly important to the legal profession, as both a corrective and a companion to these measures, the human element of the practice and business of law will become even more important. Both law firms and legal departments will continue to confront the impact of the current administration on their workforces, clients, customers and/or patients, from both an increasingly unpredictable and volatile legal/regulatory and workplace cultural perspective. Merging human behaviors with new technology and operational procedures will continue to be challenging. Workplace harassment and the #MeToo movement will have its Big Law/Big Legal Department moment in 2018. Attracting, recruiting, integrating and retaining more diverse lawyers (especially into in-house legal departments, and most especially in consumer/client facing industries) will of necessity continue to be a priority and challenge – and that diversity will encompass age, gender, ethnic, work/home life balance and other forms of diversity, to reflect the changing face and needs of the public. For multinational organizations, these concerns and interactions will be even more fraught. EQ skills, cultural fit and relationships will be even bigger "tie breakers" in determining who gets and keeps the best jobs (for in-house counsel) and work (for outside counsel). The end of the recruiting industry will continue to falsely be foreseen in favor of online recruiting resources but, actually, the nuanced work of executive search consultants who effectively partner with organizations to make the right hires – particularly in critical roles at the senior levels – will become all the more valuable. It will not be enough to simply be the smartest, best credentialed, or even hardest working lawyer in the room. We'll all have to bring so much more than what is on our CVs to the table to remain competitive. The lawyers who can most consistently and effectively integrate and utilize their IQ and EQ skills will be unstoppable."

## David Greetham



**HIGH PERFORMANCE COUNSEL**  
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**David A. Greetham**  
**RICOH**  
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"I predict that Crypto currency will have a breakthrough year – It will likely cause challenges in litigation, particularly in the area of valuation of damages. This will be due to consistently changing currencies and "exchange rates" – I also predict that corporate clients will demand stronger and proven cybersecurity policies/certifications from law firms, and this will finally become an

absolute entry level pre-requisite to conducting business with corporations."

## Monica Zent

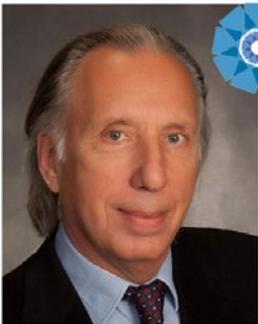


**HIGH PERFORMANCE COUNSEL**  
#FearlessLaw  
**Monica Zent**  
**ZENTLAW**   
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"As the legal industry started to get over the hump in 2017 about the idea of adopting technology to improve process, information retrieval, and be more efficient, we'll see that appetite mature in the New Year. In 2018, I expect we will see more of the legal industry embracing enterprise social technology for collaboration and knowledge sharing.

This will be the year in which the industry is ready to jump with both feet into the cloud. We'll also see a more mature buyer in the legal industry that understands there is not one piece of technology for all functions and purposes but, instead, a suite of technologies that serve various needs that any law firm, law department and legal practice may have. We'll see a level of technical competence that understands the benefits of the cloud offerings and how those offerings can work together to provide a cohesive solution for lawyers. We will see a more mature LegalTech industry and one that collaborates to find ways to harmonize solutions for the benefit of the end customer. We'll see the alternative law firm model continue to rise and gain greater adoption. Lastly, we'll likely see more acquisition activity in LegalTech as the industry further consolidates the offerings to the market. In short, it's going to be an exciting year ahead for LegalTech and those of us in the legal innovation ecosystem!"

## Mark Cohen



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#FearlessLaw

Mark A Cohen



LEGALMOSAIC



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“Ascent of the law company. The migration of non-differentiated work from law firms in-house and to other providers will accelerate. “Legal practice” will continue to contract and “legal delivery” will expand. A new corporate structured, tech and process-enabled delivery paradigm—the law company—will gain traction in the marketplace and will ultimately replace the

traditional law firm partnership model.”

## Matthew J Ahearn



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Matthew J. Ahearn

Ahearn Legal Technology



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“Changes to FRE re hash values at point of collection will create a short window for sharp plaintiffs to wreak havoc on downstream workflows where container files have been extracted and the source hash wasn’t correlated to downstream files and exception report reconciliation in the load file(s). Who drafted the load file spec in the Stip? Welcome to the world of

source container hash values with families tracked all the way through. As they always should have been, of course. But some vendors are going to be caught short absent proper guidance from counsel. And of course the reverse knowledge gaps will happen, too. Fun stuff so long as your side avoids the issues and it’s the other that did not.”

## Fernando Garcia



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Fernando Garcia



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"2018 will see implementation of AI within the legal sector take two steps forward and one step back. AI and legal tech tools will continue to see increasing implementation within law firms (and even law schools) as they seek opportunities to provide more efficient and effective services. There may even be a push within one or two law societies across Canada

requiring lawyers to become competent and even use AI tools in servicing their clients as part of their rules of professional conduct. That being said, I can see government and law societies increasingly move toward increasingly scrutinizing and possibly regulating the role that AI can play in assisting counsel in providing legal advice and servicing clients. The level of intervention in either trend will determine the extent to which AI will continue to grow and play an increasingly significant impact on the legal profession; the devil will be in the details!!"

## Ed Walters



HIGH PERFORMANCE COUNSEL  
#BakersDozen  
Ed Walters



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"2018 will be the year for legal analytics, powered by legal data. You'll see analytics in legal research services (Fastcase 7 and AI Sandbox, Lex Machina and Ravel in LexisNexis, and more), as well as in contract standardization and workflow benchmarking. Clients who are savvy in legal operations (think members of CLOC or ACC Legal Operations) make data-driven

decisions across their businesses - except in legal. To win the business of the most sophisticated clients, firms will use AI tools to clean and refine their data, and use analytic tools to display what the data show."

## Karl Chapman



**HIGH  
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**Karl Chapman**  
**Riverview**  
LAW  
Legal input. Business output.  
 CONTRIBUTOR  
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“2018, the year we will look back on and say that (i) ‘Triage’ (one of the most powerful words in the Corporate Legal Department dictionary), (ii) ‘Legal Operations Platform’ (a legal department technology solution which drives quality, service, efficiency, automation and scalability) and (iii) ‘Legal Data Layer’ (providing lawyers with operational and business insight to evolve the firm

and Corporate Legal Department operating models) changed the legal market structure and value chain permanently.”

## Ralph C Losey



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**Ralph C. Losey**  
**jackson lewis.**  
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“I have been speaking about AI methodology in 2017 with not much adoption. With Relativity’s widely used software coming out with active machine learning, I predict this will help the industry to start to catch up in 2018.”

## Patrick J McKenna



"2018 Will Be A Year in Which Law Firms Experience Ever Greater Frustration in Trying to Figure Out How to Organizing Their Groups To Best Serve Clients

I remember an incident, in the late 90s, where I was called in to facilitate a partner meeting that was intended to develop a strategic plan, for at that time what was being called a "Technology Group." Shortly

into the discussions I realized that four of the partners were excited about their work with internet providers, three others focused on cable television, another five were serving software development companies, while the final three were into e-commerce operations. One supposed practice group that in reality was comprised of four sub-groups serving entirely different clients. These partners in their different sub-groups had nothing in common.

Welcome to 2018 and Déjà vu!

Many law firms are recognizing the tremendous growth opportunities available to them in targeting and serving what I call "Tech-Driven Hybrids." These are not purely substantive legal practices, nor are they correctly categorized as being industry practices, but rather a hybrid of both - in that as a partner or law firm you can choose to serve Artificial Intelligence companies (e.g. Deep Learning) and/or some specific sub-industry niche (e.g. FinTech) that may be dramatically impacted and disrupted by AI.

The challenge for many law firms will be in organizing groups capable of effectively serving these hybrids as evidenced by recent announcements from both LeClair Ryan and Clifford Chance."

US law firm LeClairRyan has just launched a "new cross-office, cross-disciplinary Technology & Innovations practice team focused on ramping up service for companies that sell—or are heavily dependent upon—technology." Across-the-pond Clifford Chance (UK) has pulled together 400 of its lawyers to form a new technology group to be deployed across different practice areas.

This is all about to get very messy with lawyers crawling over each other trying to figure out who should best serve which client.

By way of contrast, if we were to look at the area of Virtual Reality (VR) we could identify 8 significant players located in places like Seattle, Phoenix, Chicago and Silicon Valley; and ranging in size from a sole practitioner to a 1000-lawyer firm with four partners who focus on this niche area. Here's a NEWS

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*PATRICK MCKENNA continued*

FLASH: From the client's perspective, they don't care whether you have a dedicated Technology practice team of hundreds, they just care whether you can show evidence that you know anything about their particular area and business issues.

In a very similar fashion, I authored a paper earlier this year (Unlocking The Mystique of Understanding Industry Clients – Legal Business World Issue No.1) wherein I chastised those law firms promoting their one large, homogeneous Health Care Practice, advocating that there is no such thing as a Health Care lawyer. In that article I identified how the Health Care industry is now divided into well over 40 different sub-segments and from the client's perspective (which should be paramount) if I'm looking for legal counsel in emerging litigation risk assessment with CRISPR Genomics Editing, your having hundreds of lawyers in some Health Care Group really has little significance for me . . . unless you have proven expertise in my area of concern.

So, welcome to 2018 and the age of the Micro-Niche.

Don't tell me you have a Technology Practice Team. Tell me what specific legal experience you have and about the business issues related to applying 3D printing to the energy management industry; in utilizing AI to develop treatment plans for brain-cancer patients; in using industrial robots for remote construction site surveillance; micro-chipping employees to enhance workplace surveillance, or how synthetic biology is being used to produce wine without grapes – all things that are happening right now, as you read this.

I am told that one of the very specific strategic goals at both Deloitte and McKinsey is recognizing that within the next three years, by the end of 2020, one-third of firm revenues need to come from services they do NOT now provide. Law firms can achieve that same goal . . . if properly organized and strategically focused.

## Caleb H King



"2018 will be the year that stardom decisions while persuasive for legal precedent no longer applied for legal operations."

## Mary Mack



"Three years ago, I started evangelizing the idea that generic eDiscovery was not enough. My message was to cover the base, go deep and extend. Cover the base meant to certify whether with ACEDS, or tool based certifications. Go deep meant to specialize, perhaps into analytics, cloud, or a practice area like IP, employment, white collar.

Extend meant to look at additional disciplines bumping up against eDiscovery like privacy, security or compliance.

Last year the night before Legal Tech, I spoke with Jared Coseglia about the State of the Industry 2017: eDiscovery and Cyber Security where Jared made the bold prediction that all eDiscovery people will be cyber people in 5 years (by 2022), not that I agreed. (here is the link: <https://vimeo.com/205411483>)

Last year, Recommind went the other way and acquired Guidance, and Access Data, Nuix and Advanced Discovery made moves into security.

For 2018, I believe we will see the flip side: well-funded or profitable security companies buying an eDiscovery software platform offering AI, text mining or active learning with the intention of turning it loose on logs and unstructured communications."

## Barbara L Bennett



"I predict that we'll see more corporations move their IT infrastructure to the cloud and have it managed and maintained by a third-party partner.

Second prediction is that we'll see more corporations and law firms move a more true collaborative platform such as G Suite."

## David Horrigan



“Organizations have discussed data security and data privacy somewhat abstractly as business and personal issues over the past few years, but 2018 will be the year they become even more significant legally. With the US Supreme Court considering both United States v. Microsoft and Carpenter v. United States while Europe's General Data Protection Regulation

(GDPR) finally becomes effective in May, we'll get some legal clarity—we hope—on everything from best practices on cross-border e-discovery to how companies should report data breaches.”

## Jennifer Johnson



“eDiscovery begins to emerge as a fully integrated business process driven by technology that delivers unprecedented efficiency and access to data at the source. Artificial Intelligence infiltrates Legal Operations and, in particular, Document Review, putting traditional linear review on the “endangered species list”. Ironically, people become more critical to the legal

process than ever by providing meaningful interpretation of information, driving quality and integrity in processes and monitoring ethical standards.”

## Raymond Blijd



HIGH PERFORMANCE COUNSEL  
#BakersDozen  
Raymond Blijd



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"While inviting I would refrain from making any predictions. However, I did observe some trends in the Legalpioneer database: Europe and Asia will bypass the USA and Canada in terms of producing LegalTech startups in 2018. GDPR and Brexit may be the hidden drivers behind this as well as protectionism and increased regulation. However, the overall global picture of legal innovation will

get grim as we registered a steady decrease globally in the number of startups founded since 2015. Let's hope we'll turn this trend."

## Jack Newton



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Jack Newton



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"2018 is the year where we'll finally see the discourse around cloud computing move away from "the security and ethics of cloud computing" to a discussion about how we can leverage the cloud to deliver legal services to consumers in new and innovative ways, and to tap into a multi-billion-dollar market opportunity while doing so!"

## John Tredennick



"I predict that Artificial Intelligence will move from ALT to mainstream in 2018 as lawyers and law firms start to harness the power of algorithms to make their practices more efficient. Today, machine learning, a form of AI, plays a huge role in e-discovery through the use of predictive analytics to sharply reduce review costs. Tomorrow, AI will help

lawyers provide better legal advice, improve their services and allow them to manage ever more complex caseloads efficiently and effectively."

## Ron Friedmann



"Past is prologue. Legal market disruption is dead, if indeed it was ever alive. The legal market has changed incrementally for many years and I expect that to continue in 2018. AI, innovation, value for clients, and alternate legal service providers were big 2017 topics. I expect all four will continue to trend in 2018. And hope more of the talk about the first two, especially

in large law firms, turns into action. If not, I expect the client drive for value means alternate providers will gain more share."

## Mike Hamilton



"Proportional Preservation:  
No More Collect-Everything

Traditionally risk adverse legal departments would typically preserve electronically stored information (ESI) by collection. As a short term remedy to prevent the spoliation of evidence, this tactic may have sufficed, but with the court's greater emphasis on proportionality,

long term risks/disadvantages of collect everything (ie collecting everything means you have to review everything for all subsequent matters), and most notably the emergence of new technology to ensure the defensible preservation of ESI without collecting, collect-everything should take a back seat to a proportional preservation techniques.

What do we mean by proportional preservation? Leveraging new technology to ensure that potentially relevant data is preserved without taking on the time and costs of actually collecting. With new in-place preservation technology, essentially locking down files in-place without collecting, combined with advanced legal hold software, which automates the legal hold distribution, tracking and reminder process, legal teams can rest peacefully knowing that potentially relevant data will be safeguarded and preserved without collecting it, saving time, money and stress.

### Rise of formal Legal Operations within corporations

This is a continuation of a trend that has slowly built over the past few years, but is primed to accelerate in 2018. The focus from the C-Suite on reducing costs while maintaining or improving outcomes requires a shift in thinking and execution. Legal processes need to be considered business processes. They need to be standardized across the organization, so that they can be managed, measured and optimized. And technology – specifically legal project management software – needs to be applied to assist those empowered with improving results."

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