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Inflation Redux: Legal Tech Prices Are Skyrocketing

by Rhys Dipshan

After contending with a volatile economy last year, many legal professionals were relieved to see inflation ease significantly from its June 2022 high. But for those in the market for legal tech products—or those just maintaining the tools they already have—there's little respite from rising costs.

While legal tech prices didn't come out of last year's peak inflationary period unscathed, law firms' technology budgets are feeling even more of a pinch these days.

There are several drivers behind legal tech's rising costs, and they're unlikely to abate anytime soon. In fact, higher legal tech expenses may become the norm as legal professionals and the legal tech industry reorient themselves to what some are referring to as the generative AI era. That will likely put more pressure on law firms to assess what technology products are worth the cost, and where to best direct their limited budgets.

THE CONVERSATION

Law firms are accustomed to seeing legal tech prices grow each year, or

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Miami Lawyers From MPA Law Firm Face Off Against the 'Hand of God'

"We know that some people will always defend [Diego] Maradona no matter what, and that is not only fine, but also beside the point of this case," said partner Paula Aguila, center, who worked on the case with junior associate Ibonne McClintock, left, and partner Monica Amador, right.

by Lisa Willis

Now that the five-year legal battle initiated by soccer icon Diego Maradona against his ex-wife was determined to lack sufficient evidence and ended in summary judgment Friday in Miami court "on all counts," the team of attorneys who went up against the creator of "The Hand of God" goal—so coined for a past World Cup victory—is speaking out about the case.

The Miami attorneys represented Claudia Villafañe in what they revealed was a fierce and "damaging" battle against the Argentine legend.

"In Argentina, both Maradona and his Argentinian counsel were on the news on a daily basis misrepresenting the developments and the evidence of the case," Villafañe attorney Paula Aguila said. "That really damaged her name."

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Reps and Warranty Insurance Is Helping Private Equity Close Deals as Transactions Face Pressure

ADOBE STOCK

"It's really helping the M&A marketplace," said Jones Foster senior counsel Kevin Lamb. "I don't think it's going away anytime soon. In fact, I expect it to become more robust."

by Alexander Lugo

In a time when the economy is still facing uncertainty and M&A deals are increasingly falling apart, representation & warranty insurance offers a solution for deals.

The relatively new tool is designed to cover breaches of representation for transactions, putting any breaches on the insurer instead of the parties involved in the deal. As high interest rates drive wedges in dealmaking today, use of the product is rising in popularity to secure those deals, even as M&A deals fall apart.

"In the past, journalists were just covering it as a vogue and exotic instrument,

SEE WARRANTY, PAGE A2

Argentine Soccer Star Fails to Provide 'Scintilla of Evidence' in Estate Match

by Michael A. Mora

A Miami state court judge ruled that late Argentina star Diego Maradona failed to provide a "scintilla of evidence" in his claims that his ex-wife hid assets and stole millions of dollars from him to purchase properties in South Florida.

Paula Aguila and Monica Amador, partners at the MPA Law Firm in Miami, said among the challenges in representing the defendant, Claudia Villafañe, was that her ex-husband, Maradona, who sued her in four courts in Argentina and in the Miami-Dade Circuit Court, was such a beloved figure in South America.

"In Argentina, both Maradona and his Argentinan counsel were on the news on a daily basis misrepresenting the developments and the evidence of the case," Aguila said. "That really damaged her name. For clients in her situation, don't engage with those accusations because it's a waste of time and

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INFLATION

whenever they renew their sales contracts. But now, they're seeing costs rise faster than before.

In International Legal Technology Association's (ILTA) 2023 Technology Survey of 532 law firms, 29% cited the high cost of technology as a critical challenge, representing the highest percentage of firms who said costs are a top challenge over, at least, the past three years.

Sean Weller, senior consultant at Argopoint said he has recently seen price increase requests from legal tech providers "come to in-house legal departments at both a higher rate and at a higher cost than I've seen at any time in the past five years."

One major driver behind the spike in legal tech costs is the desire by legal tech investors to see a return on their investment. "Both venture capital and private equity backers are placing significant pressure on legal technology teams to start delivering profits," Weller explains.

Brad Blickstein, founder and principal of Blickstein Group and NewLaw Practice co-head at Baretz+Brunelle, adds that for many providers this means raising prices and going after larger clients with deeper pockets, such as those in Big Law. "[It] seems at least that the quickest way to hitting those revenue numbers is by a smaller number of big deals."

But it's not just pressure from legal tech investors that's fueling price increases. Legal tech providers' embrace of generative AI also comes at a high cost.

"We saw this with [Technology Assisted Review] early on, [that] any new technology is going to start at a higher price point and then over time technology gets cheaper and better," said Matt Jackson, counsel of data analytics and discovery at Sidley Austin.

The cost of generative AI technology, however, isn't the only expense that legal tech providers have to factor in when pricing their offerings. They also need more AI experts to help develop the technology into products fit for legal clients. And they'll likely be looking to their customers to recoup those longer-term investments.

"Everyone's in the market looking for these high-paying roles. These expensive roles … So where do you get that cash from? Where do you get that budget from?" said CJ Webster, founder of C Webster Consulting.

THE SIGNIFICANCE

Of course, law firms don't always have to buy legal tech—they can build it themselves. But that's usually not the cheaper option, especially when it comes to generative AI-powered products.

While legal tech providers will often charge a flat fee for their generative AI-powered offerings, those directly accessing generative AI models—the technology powering these products—are paying a fee tied to usage. If law firms were to build their own generative AI tools, how much it would cost would depend on how much they're using it.

"We've done a bunch of work with it. But the more you use, the more expensive it is, because you're paying per [usage]—so it can get extremely costly," said Ed Empamano, Dykema's Chief Information Officer.

What's more, the technology itself is only one part of the overall expense. Law firms without a cadre of AI experts and coders, as well as data governance processes in place to support their generative AI development efforts, are facing a much more expensive scenario. David Cunningham, chief innovation officer at Reed Smith explained that "the biggest costs will be the new roles, investments in data quality, and the time and attention from the firm's lawyers and staff to learn, experiment, and bake AI into their DNA."

Many law firms are therefore sticking with purchasing products from legal tech vendors. But given the rising costs of these offerings, they're also scrutinizing them more closely—ensuring they do what the providers claim they can—before making any decisions.

"I'm starting to hear rumblings within the Am Law 200 where they're like, 'You know what, we're not taking a pay increase right now…. We want to wait because you're telling me what this product can do. You're not showing me that I can really use it right now,'" Webster said.

Law firms are also taking into consideration what the ROI will be in buying a legal tech product. But with generative AI, the ROI isn't always easy to measure, and will likely take a few years to materialize.

"The difficult part is, in the short term: 'Are we going to save money by using AI? Is it going to cost the same?' We just don't have the metrics to really be able to do that math. But that doesn't stop us from trying … we can be a part of the cost exercise so we can gather our own metrics on 'Is this helping? Is it taking less time? Is it getting us better results?'" said Melissa Dalziel, of counsel at Quinn Emanuel Urquhart & Sullivan.

FORECAST

Due to the fact that some locked in prices over several years, not all law firms are facing rising technology expenses. But it's likely that the impact of these price increases will steadily spread across the market in the coming months and years.

"I took a gamble by locking in many contracts over a five-year period which is usually unorthodox. They will usually do three, if that … And thankfully now I'm feeling a little bit better about it. But in three years I'm certainly going to be in trouble," Empamano at Dykema said.

Firms looking to leverage generative AI-powered offerings will see the impact sooner than most. While many law firms are piloting generative AI tools, those pilot periods will soon end, forcing them to spend considerable amounts to maintain access to the technology.

"'Pilotmania' is going on right now. And so everybody's doing a ton of pilots… But then if you have 1,000 lawyers at 30 bucks a month, that's real money," noted David Wang, Wilson Sonsini's chief innovation officer.

In this competitive environment, slowing down technology investment isn't often an option. Law firms will have to figure out ways to increase their technology procurement budgets or stretch them out further than before. It's also likely that many will also become far more discerning buyers, making sure that they get the value and capabilities they're looking for from their technology products. Going forward, there will be less room—and money—for error.

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WARRANTY

and now it's just accepted," said Jaret Davis, co-managing shareholder of Greenberg Traurig's Miami office. "I would say the majority of my M&A deals all have an RWI component to them."

Although the state of the economy isn't necessarily changing the volume of RWI policies involved in deals, the transactions that are covered by the product help parties feel more secure in the current environment of uncertainty, Davis said.

The tool has been surging in popularity over the last ten years after it became more user friendly and people became more comfortable with it, said Aaron Slavens, who serves as the Miami-based co-head of Holland & Knight's private equity practice.

"It's now the go-to tool in private M&A transactions," he said. "That being said, it's very cyclical because it is tied to the M&A market. Up until last year we were really in a [busy] M&A environment … 2021 was the busiest year of all time for M&A deals. But as we get into 2022 and 2023 the number of M&A deals generally has slowed down."

The blockbuster M&A years put RWI on a surge, and more industries joined in on the trend as they figured out how to use it. Healthcare, for example, is highly regulated so it historically did not use RWI. But sector players figured out how to use the product and have since embraced it, Slavens said.

Regardless, some sectors like cannabis and firearms have not figured out a way to overcome regulatory obstacles to start using RWI, he said.

As popularity has risen, so has the number of insurers offering the product, which has brought prices down, said Kevin Lamb, a corporate law senior counsel at Jones Foster's West Palm Beach office.

The prices are also helping drive popularity up, according to Lamb. And if M&A work does pick back up, he expects to see RWI in even more deals.

"It's really helping the M&A marketplace," Lamb said. "I don't think it's going away anytime soon. In fact, I expect it to become more robust as the M&A market returns to its historical numbers."

Alexander Lugo is a business of law reporter based in Miami who is focused on covering law firms in South Florida. Contact him at alugo@alm.com.

FROM PAGE A1

LAWYERS

Maradona died in 2020 of a heart attack after brain surgery.

MEET THE SOUTH FLORIDA LAWYERS

Born in Brazil and raised in Argentina, Aguila, a University of Miami graduate, has been lead attorney for Villafañe since 2018 when the attorney was partner with Rivero Mestre.

In 2021, Aguila opened her own firm, MPA Law Firm, and continued Villafañe's representation, by herself at first, and then with Monica Amador as a partner and Ibonne McClintock as a junior associate.

Their practice focuses primarily on complex commercial litigation, including financial services, investments, real estate, banking, securities, cross-border partnerships, international judgment and asset collection, as well as obtaining evidence in the U.S. for use in foreign proceedings.

Amador is an experienced trial attorney and litigator handling complex litigation cases from inception through jury selection and trial.

'PEOPLE WILL ALWAYS DEFEND MARADONA'

Aguila advises clients in similar litigation not engage in accusations made outside the courtroom "because it's a waste of time."

"Whenever you have real information, you make sure it's known," she offered.

Now, she and her small firm have gained international attention as the victors in a high-profile legal battle where their side was often painted as the villains.

"It was difficult at times because we witnessed the unfair treatment our client received from some of the media in Argentina, including misreporting the progress of the judicial process in Florida," Aguila said.

"We know that some people will always defend Maradona no matter what, and that is not only fine, but also beside the point of this case, so we just had to be sensitive to that when discussing the case outside of the courts," Aguila said. "Having said that, while it was challenging at times, it was a well-fought litigation, making the final order on the summary judgment even more rewarding for us and our client."

According to court records, the case included counts for unjust enrichment, breach of fiduciary duty, conversion, constructive fraud, constructive trust, and equitable accounting. It alleged Villafañe had stolen millions from Maradona to purchase South Florida properties.

'A VERY HIGH BURDEN TO MEET'

The Oct. 20 decisive ruling in Villafañe's favor effectively concluded the globally publicized dispute, the attorneys said.

Aguila said they prepared for this case like any other.

"Being a boutique law firm gives us the opportunity to handle each case methodically, focusing on its unique legal arguments and factual distinctions," the attorney said. "We work hard to craft the best possible argument tailored to the specific circumstances of each case. That is what we did here. We spoke with Villafañe at length to learn the intricacies and particularities of the real facts underlying her case and, based on that, we outlined the best possible strategy for her defense."

The team's goal was to end the case in summary judgment.

"We had the additional hurdle of persuading the Judge of what we already knew: that there was no real evidence supporting this case. That is a very high burden to meet," Aguila said.

But the long fight might have finally reached an end.

In referring to the summary judgment, Aguila said, "This is such a well-reasoned order that I don't see any chances of success on appeal. So, as I see it, with or without an appeal, this is over."

Lisa Willis reports for the Daily Business Review. Contact her at lwillis@alm.com.

FLORIDA LEGAL REVIEW

State Orders Universities to Disband Pro-Palestinian Student Group

by Brendan Farrington and Collin Binkley

Republican Florida Gov. Ron DeSantis's administration is taking the extraordinary step of ordering state universities to ban a pro-Palestinian student organization from campuses, saying it illegally backs Hamas militants who attacked Israel earlier this month.

As Israel's attacks on Gaza have intensified, some college students have expressed solidarity with Palestinians, resulting in swift censure from some Jewish academics and even some prospective employers. But Florida has gone further, saying Students for Justice in Palestine is supporting a "terrorist organization."

State university system Chancellor Ray Rodrigues wrote to university presidents Tuesday at Gov. Ron DeSantis' urging, directing them to disband chapters of SJP. He quoted the national group's declaration that "Palestinian students in exile are PART of this movement, not in solidarity with this movement."

"It is a felony under Florida law to 'knowingly provide material support ... to a designated foreign terrorist organization,'" Rodrigues said in the letter.

The U.S. State Department designated Hamas a terrorist group in 1997. The European Union and other Western countries also consider it a terrorist organization.

Hamas won 2006 parliamentary elections and in 2007 violently seized control of the Gaza Strip from the internationally recognized Palestinian Authority. The Palestinian Authority, dominated by rival Fatah movement, administers semi-autonomous areas of the Israeli-occupied West Bank.

DeSantis, who is running for president, has ramped up his pro-Israel stance since the Oct. 7 Hamas attacks in southern Israel, which led to pro- and anti-Israel demonstrations around the world and prompted Israel to respond with airstrikes. The governor has sent planes to Israel to provide supplies and return Floridians there who want to come back.

He also is supporting a special legislative session to impose new sanctions on Iran, which supports Hamas, and to express support for Israel. So far, no government has presented evidence that Iran was directly involved in carrying out the attacks.

Students for Justice in Palestine has been on U.S. campuses for decades, with frequent protests calling for the liberation of Palestinians and boycotts against Israel. The loosely connected network says it has more than 200 chapters across the United States.

Palestine Legal, a group that provides legal support for pro-Palestinian groups, said the ban on SJP is part of a broader effort by DeSantis to suppress freedom of speech on campuses.

"Florida, particularly under the leadership of Governor Ron DeSantis, has been actively undermining education, freedom of speech and social justice movements, including by banning anti-racist courses and trying to criminalize protests. It is not surprising that this egregious move to silence the student movement for Palestinian rights is being pursued under DeSantis," it said Wednesday in a statement.

Under DeSantis, Florida has limited how race can be discussed in schools, prohibited state universities from spending money on diversity, equality and inclusion programs and taken other actions that critics say limit free speech on campus.

SJP has played a central role in a campus movement known as BDS, calling for the boycott, divestment and sanction of Israel over its treatment of Palestinians. The national group didn't immediately reply to an email seeking comment.

The Foundation for Individual Rights and Expression, a free speech group, called Florida's directive unconstitutional and dangerous and said the government does not have the legal authority to force colleges to ban SJP chapters.

"If it goes unchallenged, no one's political beliefs will be safe from government suppression," the group said in a statement.

The ban came after the only Jewish Republican in the state Legislature switched his support in the presidential election from DeSantis to former President Donald Trump, saying DeSantis doesn't back up his pro-Israel words with action.

Rep. Randy Fine, who has advised DeSantis on Israel and Jewish policy, said he had called on the administration to take action against the student group but there was none until he released a strongly worded op-ed explaining his decision to switch his endorsement.

"It shouldn't have taken me endorsing Trump to make it happen. I was begging them for two weeks and was just getting the Heisman at every turn," Fine said, referring to the college football trophy depicting a player holding his arm out to fend off opponents.

The governor's office said the ban was in the works for more than a week, however.

"The action, taken by the administration had nothing to do with Representative Fine. Any implication otherwise is nothing more than political grandstanding. Randy Fine is not the center of our universe," DeSantis spokesman Jeremy Redfern said via email.

Students for Justice in Palestine and several other groups called for a national student walkout on college campuses Wednesday to demand an end to Israeli attacks on Gaza and to U.S. financial backing for Israel. Walkouts were planned campuses from the University of Massachusetts, Amherst, to the University of California, Los Angeles.

Brendan Farrington and Collin Binkley report for the Associated Press.

DeSantis Fires Back on State Attorney Worrell Suspension

by Jim Saunders

Gov. Ron DeSantis late Tuesday urged the Florida Supreme Court to reject a challenge to his suspension of Orlando-area State Attorney Monique Worrell, saying the case "presents a political question."

"(Part of the Florida Constitution) authorizes the governor to suspend an official for enumerated grounds and grants the Senate alone the power to remove (from office)," attorneys for DeSantis wrote in a 63-page response to a court petition filed in September by Worrell. "The Senate thus is invested with the sole discretion to decide whether the governor's suspension order adequately stated grounds for suspension, just as the Constitution entrusts to that body the sole power to try impeachments. This (Supreme) Court should now make clear what it has often implied: the validity of a suspension and removal is a non-justiciable political question."

The response also said DeSantis had grounds to suspend Worrell, alleging that her office "adopted practices and policies resulting in undercharging, excessively slow case times, and the evasion of certain sentence enhancements required by the Legislature."

DeSantis on Aug. 9 issued an executive order suspending Worrell, a Democrat who was elected in 2020 in the 9th Judicial Circuit, which is made up of Orange and Osceola counties. Among other things, the order alleged that Worrell's policies prevented or discouraged assistant state attorneys from seeking minimum mandatory sentences for gun crimes and drug trafficking offenses.

But Worrell filed the petition at the Supreme Court in an attempt to get her job back and argued that DeSantis did not have a legal basis for the suspension.

"To the extent the governor disagrees with how Ms. Worrell is lawfully exercising her prosecutorial discretion, such a disagreement does not constitute a basis for suspension from elected office," Worrell's lawyers wrote in the 46-page petition. "Ms. Worrell was elected to serve as state attorney, not the governor. Mere disagreement between a governor and a state attorney about where within the lawful range of discretion that discretion should be exercised falls far short of the constitutionally required showing of neglect of duty or incompetence."

The petition disputed allegations in DeSantis' executive order.

"(Unable) even to identify any 'practices or policies' of Ms. Worrell, the executive order instead attempts to infer that she has adopted practices or policies that result in reduced incarceration rates by comparing incarceration rate data from the Ninth Judicial Circuit to that of other Florida judicial circuits," the petition said. "Such data, even if accurate, reflects a host of factors unrelated to the practices or policies of the state attorney and thus cannot be relied on to demonstrate that Ms. Worrell has practices or policies that result in lower incarceration rates. Moreover, because there is no duty for a state attorney to maximize incarceration rates, lower than average incarceration rates are no evidence of neglect of duty or incompetence."

Worrell's suspension and the resulting legal fight came after DeSantis last year suspended Hillsborough County State Attorney Andrew Warren in a highly controversial move.

Warren, a Democrat, challenged his suspension at the Supreme Court, but justices ruled in June that he waited too long to bring the case. Warren also is fighting the suspension in federal court, with the issue pending at the 11th U.S. Circuit Court of Appeals.

While the Senate has ultimate authority to decide whether to remove officials from office, it advised a lawyer for Worrell that it would put proceedings in "abeyance" if she challenged the suspension in court. DeSantis appointed Andrew Bain, who recently served as an Orange County judge, to replace Worrell as state attorney.

In the response filed Tuesday, lawyers for DeSantis pushed back against Worrell's arguments about prosecutorial discretion,

"Ms. Worrell does not have 'discretion' to abuse her power to bring criminal charges by chronic underenforcement of Florida law," the response said.

The Supreme Court is scheduled Dec. 6 to hear arguments in the case.

Jim Saunders reports for the News Service of Florida.

Orlando Buys Pulse Nightclub Property to Build Memorial

The Associated Press

The city of Orlando is moving forward with plans to create a memorial on the property of the Pulse nightclub, where 49 people were massacred seven years ago.

City leaders agreed Monday night to purchase the property for $2 million. Orlando Mayor Buddy Dyer said they plan a collaborative approach, working with families of the victims to create the memorial.

On June 12, 2016, Omar Mateen opened fire in the gay nightclub, killing 49 and wounding another 53 people. At the time, it was the worst mass shooting in modern U.S. history. But that number was surpassed the following year when 58 people were killed and more than 850 were injured among a crowd of 22,000 at a country music festival in Las Vegas.

A SWAT team killed Mateen, who had pledged allegiance to the Islamic State group, following a standoff.

Plans to build the memorial had been in the works for years, but the nonprofit onePulse Foundation announced earlier this year that it was scaling back plans for a $100 million memorial following fundraising challenges.

The building still stands, surrounded by a temporary display that honors the victims.

"We look forward to being a part of the discussion with the City of Orlando as this moves forward," a statement from the onePulse Foundation said.

FROM THE COURTS

Do We Have a Hybrid Work Policy Yet?

by The Legal Intelligencer Young Lawyer Editorial Board

ADOBE STOCK

After years of uncertainty, the best work-from-home policy is one that is clear, consistently enforced, and implemented long term.

The road back to the office is paved with uncertainty. It seems the legal profession, like virtually every other office culture, has a nearly endless appetite for discussing the pros and cons of working from home. We are still debating whether remote work kills morale or improves quality of life, hurts productivity or enables greater focus, or whether it causes employee turnover or is part of a smart retention strategy. Hardly a week goes by without a think-piece on the future of office life or brainstorming how to get employees back in the office. This continued discussion leads to organizations frequently revising their work from home policies and enforcement mechanisms. What we end up with are piecemeal and patchwork policies full of caveats, "subject to further revision," and prone to questions about enforcement.

While this chorus of voices is interesting and hopefully spurred some innovation, at some point the experimentation must end. Three years after the lockdown forced employees to figure out how to work from home, the harm from the uncertainty around this issue can easily outweigh the comparative benefits of finding the optimum work-from-home policy. This is particularly true in the case of younger lawyers, whose fledgling careers—and growing family obligations—will be shaped the most by these policies.

It's easy to see how differing office attendance policies will have long-term effects on employees. Many young lawyers find themselves on the verge of major life changes, thinking seriously about buying a first home, starting a family, and putting down roots. For a young attorney expected to grind out long hours, the difference between a two-day in-office policy and a four-day in-office policy can be the difference between searching for a house in the suburbs or a convenient apartment in the city. That decision is stressful enough without worrying that shifting assumptions about where and how we work might turn a shrewd home purchase into an untenable commute. Professional decisions are subject to similar pressures. Many networking choices will assume a certain balance between office life and working from home.

For instance, lawyers primarily working from home may be better served by exploring membership in their local county bar association instead of investing in networking opportunities close to the office.

As a practical matter, younger lawyers will have the least say in determining their office policy, while being the most susceptible to its enforcement. Newer attorneys are less likely to have a voice at the management table where these decisions are made, which makes waiting in limbo for a final policy (or a "further revised" policy) even more frustrating. Plus, most young lawyers will not have the long relationships, reputations, or books of business that will allow more senior attorneys to negotiate personal exceptions and exemptions to the office policy.

However, that dynamic is nothing new. Attorneys just starting out have always been at the bottom of the pecking order. Newer attorneys quickly learn the importance of adapting and finding a way to grow within their organizations in the face of challenges and change.

Navigating a work from home policy is no different.

Ultimately, if there were a clear right answer on how to return to the office, we would have found it by now. Three years of people in every profession considering every angle has not produced one. The perfect solution simply does not exist. Any solution is going to come with its own unique set of pros and cons. However, a good first step in developing work-from-home policies is to solicit the input of those most affected—newer attorneys. Work-from-home and hybrid work policies should be clearly communicated and consistently enforced so that all attorneys know the expectations up front. They should also be straightforward—don't have expectations of four days a week in office when the policy is only two days a week. Having a reliable work-from-home policy eases the feelings of uncertainty and allows young attorneys to focus on building lasting client relationships and becoming experts in our respective fields.

All this is to say, after years of uncertainty, the best work-from-home policy is one that is clear, consistently enforced, and implemented long term. This generation of lawyers is resilient and will tackle challenges presented to us and navigating hybrid work policies are no exception.

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ESTATE MATCH

whenever you have real information, you make sure it's known."

Eduardo Rodríguez, the managing partner at the EFR Law Firm in Coral Gables who was among the attorneys for Maradona's estate, did not respond to a request seeking comment.

Now, Miami-Dade Circuit Judge Carlos Lopez ruled that Maradona's estate has less than 30 days to appeal the ruling and will likely have to pay substantial attorney fees and costs to Villafañe.

Villafañe and Maradona married in Argentina in November 1989 and had two daughters together. But they separated a decade later and legally divorced in 2003. In 2013, they entered into a marital settlement agreement. Two years later, Maradona sued his ex-wife for unjust enrichment, breach of fiduciary duty, conversion, constructive fraud, and equitable accounting.

Maradona's estate alleged that Villafañe misappropriated funds from him while still married but before their separation to purchase six condominiums in South Florida. Maradona's estate supported these claims with warranty deeds and mortgages for the properties in which Villafañe identified herself as single, while separated, but not legally divorced.

Maradona claimed that Villafañe concealed the theft, failed to declare the properties in her tax declarations in Argentina, held a position of trust and confidence and owed Maradona a duty of care to maintain and preserve his wealth without misappropriating his funds without his authority. In supporting the allegations, the estate submitted a declaration by Maradona.

While the deposition of a plaintiff in a civil case is generally granted as a right, Maradona fought against his deposition being taken, even having his Argentine doctor, Leopoldo Luque, appear before the circuit court and attest to his medical conditions, including his mental and physical state, which Luque argued should prohibit Maradona's testimony in his own case.

And because of the delays caused by the coronavirus pandemic and Maradona's death, the circuit court did not hear the soccer star's deposition. Aguila, Villafañe's counsel, deposed Maradona's manager and Argentine counsel, Matias Morla, who admitted that he never saw any financial records of Maradona nor performed a financial audit of his finances.

Lopez has since sanctioned Maradona's estate for misrepresenting the existence of a 2014 audit in the complaint and in discovery. The estate has to pay the attorney fees for the work necessary to uncover the misrepresentations, and Aguila will move for attorney fees for the last five years.

And Lopez, in his ruling, faulted Maradona's estate seven times for having "zero evidence" or "no evidence" for any of its allegations, and at one point holding that "at best, plaintiff has provided the court with a suspicion, which is unsupported by the record and insufficient under the law."

"The summary judgment order is not only the end of the case," Aguila said, "but it clears Villafañe's name of these false allegations, which both Morla and Maradona repeated publicly for years."

Michael A. Mora is a litigation editor at ALM, as well as a reporter for the South Florida Daily Business Review. Contact him at mmora@alm.com.

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FROM THE COURTS

Former Trump Lawyers Among First to Plead Guilty in Election Case

The booking photos of Jenna Ellis, left, Sidney Powell, center, and Kenneth Chesebro, right.

by Thomas Spigolon

Jenna Ellis became the third lawyer in six days to take a plea deal in the case involving what Fulton County District Attorney Fani Willis has called a criminal racketeering enterprise to overturn Georgia's presidential election, led by former President Donald Trump.

Ellis on Tuesday followed fellow Trump attorneys Sidney Powell and Kenneth Chesebro in entering guilty pleas to lesser charges in the case in Fulton County Superior Court in Atlanta. The fact that lawyers are among the first to plead guilty in the case has caught the attention of legal scholars, including some who say it may not be a coincidence.

Fred Smith Jr., a professor of law at Emory University, said in an interview he believed lawyers have been among those taking plea deals in the case because they already knew the advantages of doing so early in the legal proceedings. Powell, for example, began her career as a federal prosecutor in Texas.

Smith said the lawyers agreed to testify for the prosecution and may provide Willis and her team with evidence they might not have previously had.

"It puts you in a better negotiating position," he said.

The plea deals include the required cooperation of the three as witnesses in the case and could help prosecutors as they work to gain evidence in the case against Trump and 14 others.

Another issue that "may be playing a role" is the lawyers' desires to remain in good standing in the states in which they are licensed to practice, Smith said. He referred to Ellis' March censure for misconduct by a Colorado Supreme Court judge.

Smith also said they likely were motivated to take the deals so they could make sure there is not "this cloud hanging over them as they try to move forward in their lives and their careers" by being charged with felony racketeering.

"It's one thing for a publicist to be able to move forward with one's career with a cloud like this hanging over [her]," Smith said, in reference to music publicist Trevian Kutti who is among those charged. "It's quite another for an attorney to continue practicing law with a cloud of this sort hanging over them."

After entering her plea, Ellis told Judge Scott McAfee in a statement Tuesday that other lawyers shared in the blame for her actions.

"I relied on others, including lawyers with many more years of experience than I, to provide me with true and reliable information, especially since my role involved speaking to the media and to legislators in various states," she said.

"What I did not do, but should have done, your honor, was to make sure that the facts the other lawyers alleged to be true were, in fact, true. In the frenetic pace of attempting to raise challenges to the election in several states, including Georgia, I failed to do my due diligence," Ellis said.

Prosecutors originally alleged that Ellis and Trump's personal lawyer, Rudy Giuliani, attended a meeting with Georgia state lawmakers in which they made false claims about voting irregularities to persuade lawmakers not to certify Biden's narrow victory in the state.

Chesebro was the alleged "architect" of the scheme to change votes in a number of states, including Georgia. Powell was present for the December 2020 meeting at the White House where participants hatched far-fetched schemes to keep Trump in power, The Associated Press reported.

Smith said that, as the legal proceedings move forward, others charged in the case may not receive as favorable deals as Ellis, Powell, Chesebro and bail bondsman Scott Hall—the only nonlawyer to plead guilty so far.

"It may be that [prosecutors] get to the point where they have all the information that they need to move forward and they may be less inclined to provide the same, more favorable deals going forward," he said.

Among the remaining defendants are several lawyers who have not pleaded guilty to the charges, including Rudy Giuliani, Jeffrey Clark, John Eastman and Atlanta lawyers Bob Cheeley and Ray Smith, Smith said.

Anthony Michael Kreis, an assistant professor in the Georgia State University College of Law, wrote on his personal account on the social media platform X, formerly known as Twitter, that Ellis is "bad news for Giuliani because she is tied to the state legislative roadshow urging legislators to unilaterally overturn the election, leading up to the December Georgia Senate hearings where Rudy encouraged overturning the election."

In response to Ellis' plea Tuesday, Steve Sadow, who is representing Trump in the case, said in a statement the deals that dismissed the racketeering charges in return for probation for the lawyers and Hall shows "this so-called RICO case is nothing more than a bargaining chip for DA Willis."

Thomas Spigolon reports for the Daily Report, an ALM affiliate of the Daily Business Review. Contact him at tspigolon@alm.com.

FROM THE COURTS

Court: Tufts' Overtime Requirement Discriminated Against Nurse

by Riley Brennan

The Massachusetts Appeals Court affirmed a superior court's holding that Tufts Medical Center discriminated against one of its nurses on the basis of her disability by failing to offer her a reasonable accommodation regarding her inability to work overtime.

Tufts Medical Center appealed from a judgment of the Superior Court which affirmed the decision and order of the Massachusetts Commission Against Discrimination, after the commission found that Tufts discriminated against nurse Marie Lunie Dalexis on the basis of her disability.

This finding was based on "adverse employment actions" that were taken against Dalexis by Tufts after her doctor informed them that she couldn't work overtime due to her medical condition.

In a Sept. 21 opinion, authored by Chief Justice Mark V. Green, the court affirmed the Superior Court's affirmance of the commission's finding that Tufts, in refusing to excuse Dalexis from the overtime obligation, "failed to offer Dalexis a reasonable accommodation for her disability," in addition to failing "to engage in the dialogue required by G.L.c. 151B, and had constructively discharged Dalexis."

After being diagnosed with rheumatoid arthritis, and interstitial lung disease due to the arthritis, Dalexis submitted a doctor's note explaining that she couldn't work past the normal hours of her shift. A temporary accommodation was granted, excusing her from working overtime.

However, after exhausting all of her leave under the Family and Medical Leave Act (FMLA), Tufts informed Dalexis that her position would be filled and she would need to apply for open positions when she able to return to work.

Once she was cleared to return to work by her doctor, Dalexis looked for nursing positions at Tufts. Despite numerous day-rotator jobs being unfulfilled, Tufts did not alert Dalexis to the positions. Rather, Dalexis was offered a night-shift position.

Following this offer, Dalexis raised her need for an accommodation, saying she couldn't work nights as doing so would exacerbate arthritis. Dalexis's doctor provided a note to Tufts that explained she could only work normal daytime shifts, not overtime or night shifts.

Therefore, Dalexis was deemed ineligible for an inpatient nurse position because overtime work was an essential function of the position, with Tufts concluding her return to work in an inpatient capacity wasn't likely and processed her for separation.

Dalexis filed a complaint with the commission, charging Tufts with discrimination against her due to her disability. A hearing officer concluded that she was a disabled employee and could have returned to work with a reasonable accommodation, and therefore, Tufts should have accommodated her by excusing her from overtime and night-shift work.

Further, the officer found that after Dalexis requested an accommodation, Tufts had "failed to participate in an effective interactive process with her, resulting in Dalexis's constructive discharge."

The commission affirmed the hearing officer's decision, concluding "that the hearing officer made an implicit determination that working overtime was not an essential function of the position and expressed its agreement with that conclusion, stating its view that the factual findings on which that conclusion was based were supported by substantial evidence."

The Appeals Court affirmed the decision on appeal, finding that Tufts failed to provide Dalexis with an accommodation.

ALLISON DINNER/BLOOMBERG NEWS

The Massachusetts Appeals Court affirmed a holding that Tufts Medical Center discriminated against one of its nurses on the basis of her disability by failing to offer her a reasonable accommodation regarding her inability to work overtime.

On appeal Tufts didn't contest the conclusion that Dalexis was a "handicapped person," but argued that her claim failed because she wasn't able to perform overtime work, which it said was an essential function of the role of an inpatient nurse. Therefore, Tufts contended that the commission's decision that overtime work wasn't an essential function of the job was erroneous.

"In the present case, in explaining its conclusion that working overtime is not an essential function of the job of an inpatient nurse, the commission emphasized the hearing officer's findings that the CBA does not mandate overtime, and that, while many nurses in fact worked overtime, some nurses performed as little as three hours of overtime during a full year, and more than five percent of Tufts nurses worked no overtime at all," said the court, which further noted that Dalexis was even granted in accommodation exempting her from working overtime at one point.

Therefore, the commission supported the Hearing Officer's conclusion that overtime wasn't an essential function of a Tufts inpatient nurse.

"We are aware that a number of cases, arising in a variety of different settings, have concluded that overtime can be an essential function of a job," said the court. "However, the fact that overtime has been found to be an essential function in certain settings does not compel the conclusion that it is an essential function in the circumstances of the present case. Moreover, even if, left to our own analysis, we might conclude that overtime was an essential function of the job of an inpatient nurse at Tufts, it is not for us to substitute our judgment for that of the commission."

Associate Justice Vickie L. Henry concurred, writing separately to disagree with Justice John C. Englander's dissenting opinion.

Henry claimed she believed the court could affirm on a separate and independent basis from which Englander dissented, noting that "under G.L.c. 151B, even if overtime were an essential function of a job, elimination of a force overtime requirement could still be a reasonable accommodation based on the record in this case."

In his dissent, Englander noted that "Tufts Medical Center's (Tufts's) position has been that its inpatient nurses must be able to work overtime if circumstances require it -- that is, the ability to work overtime is an essential function of the inpatient nursing position."

"Although she ruled for Dalexis, the hearing officer did not make a finding on this issue. Indeed, the hearing officer did not even address some of the most important evidence bearing on the question. And although the commission concluded that such a finding was 'implicit,' it too failed to address the important evidence bearing on the question," Englander said. "In my view, those failures require a remand for further proceedings."

"The MCAD appreciates the adherence to the long-standing deferential standard applied to the review of agency decisions under Chapter 30A, section 14 in this matter where there was a well-developed, factual record before the Hearing Officer and the Full Commission containing sufficient evidence of disability discrimination," said a spokesperson for the Massachusetts Commission Against Discrimination. "Determining whether or not a duty is an essential function of a position is a fact-intensive, case-by-case determination and the Court correctly rejected arguments that misaligned with the directive to broadly interpret Chapter 151B to achieve its remedial purposes."

Tufts' attorney, Gregory A. Brown, a shareholder at Littler, in Boston, Dalexis' attorney, Howard M. Fine of the Law Offices of Howard M. Fine, in Boston, did not immediately respond to a request for comment.

Riley Brennan reports for Law.com, an ALM affiliate of the Daily Business Review. Contact her at rbrennan@alm.com.

SEC Chair Calls Crypto Industry 'Really Rife With Noncompliance'

by Maydeen Merino

U.S. Securities and Exchange Commission Chair Gary Gensler called the cryptocurrency industry "really rife with noncompliance" with SEC regulations designed to protect investors from inaccurate or fraudulent claims.

"We would never allow the New York Stock Exchange … or a hedge fund or broker-dealer to do the things that crypto intermediaries may be doing," Gensler said at the 2023 Securities Enforcement Forum sponsored by Securities Docket. "So yes, we want to work with folks to get into compliance. But it also starts with whether that crypto intermediary or that crypto securities asset provider wants to come into compliance."

Gensler's comments came amid the crypto industry's arguments that the currency is a commodity and not an SEC-regulated security. The industry, which denies Gensler's broad accusations, has also argued that the commission has failed to provide a clear framework for compliance—arguments the SEC chair rejected.

"As I've previously said, without prejudging any one asset, the vast majority of crypto assets likely meet the investment contract test, making them subject to the securities laws," Gensler said at the Washington event.

"Further, it follows that most crypto intermediaries—transacting in these crypto asset securities—are subject to the securities laws as well," he added. "With wide-ranging noncompliance, frankly, it's not surprising that we've seen many problems in these markets."

The agency's enforcement actions against the crypto industry and publicly traded companies is "about trust in the market," Gensler said. "When you trust in markets, the better investors can participate, the more households participate when you can trust the market and that's what we don't have in the crypto market."

Last week, the SEC released its 2024 priorities report, stating it would continue to observe crypto assets and emerging financial technology, such as broker-dealer mobile applications and advisers providing automated investment advice to their clients.

"Given the continued volatility of, and activity around, the crypto asset markets, the [SEC's examination] division will continue to monitor and, when appropriate, conduct examinations of registrants," the report stated.

Gensler said the SEC filed a total of more than 780 enforcement actions against regulated parties in the fiscal year that ended Sept. 30, resulting in a recovery of $930 million to harmed investors.

Two-thirds of the enforcement actions were brought against individuals, Gensler added.

"Accountability includes protecting the public by barring individuals—whether from practicing before the SEC, association bars, or otherwise," he said. "Last year, we obtained 133 bars on individuals from serving as officers and directors—our highest in a decade."

Added Gensler: "Don't get me started on crypto."

Maydeen Merino covers the U.S. Department of Justice and regulatory affairs. Contact her at mmerino@alm.com. On X: @maydeennnn.

INTERNATIONAL

'We Got the Mandate to Grow': Linklaters Ups Its Focus on LatAm

by Amy Guthrie

ADOBE STOCK

Linklaters is building muscle in a region that increasingly intersects with its global network, while it has also increased referrals from local law firms.

When Linklaters hired a well-connected Argentine lawyer from Cleary Gottlieb Steen & Hamilton to widen its capabilities in Latin America recently it signaled the latest step in the firm's strategy for the region.

Emilio Minvielle has joined the firm's Washington, D.C. and New York offices as counsel after nearly two decades with Cleary, which shuttered its Buenos Aires outpost in 2022.

Despite not operating out of Argentina, Minvielle's arrival is described by the co-head of Linklaters' Latin America practice as a "game changer" for a region that has been identified as a key growth area for the firm.

"Within the firm, people are realizing a lot of the work we do in the Americas has a connection to Latin America," said Matthew Poulter, who has been with Linklaters for nearly two decades, and has been based in São Paulo for two years.

Poulter said that, historically, members of the firm's Latin America practice have pounded the pavement to drum up work—finding success especially in Argentina, Brazil and Chile.

While that on-the-ground sourcing remains important, he explained, in recent years the firm's Latin America practice leaders have also made a greater effort to tap into Linklaters' massive global network.

"We're a large firm, with over 500 partners, and I think a lot of it is just getting out there and explaining it to people. It's a bit of internal marketing, they're all my clients."

"We've got to talk to each other, and we've been communicating, I think, better over the last couple of years why Latin America is so compelling for our firm," he said, adding: "We got the mandate to grow the practice."

That internal marketing, he said, has led to more work coming in from colleagues in Germany, London and Asia.

At the same time, Poulter has noticed a sizable uptick in referrals from local law firms since he relocated to Brazil, where he is accompanied by four U.S.-qualified associates.

Linklaters has also sent a representative to Mexico, Latin America's second-largest economy. Alberto García Linera, a managing associate from Spain, arrived in Mexico in 2021 with the goal of deepening relationships with leading local law firms there.

"Being on the ground, being good friends with people, actually playing tennis with them, makes a difference," said Poulter, who estimates that nearly 40% of Linklaters' current work in Latin America stems from referrals by local law firms, up from 10% three years ago.

BRAZIL BEACHHEAD

Linklaters was one of the first international law firms to establish a beachhead in Latin America's largest economy when it launched a São Paulo office in 1997.

For more than a decade, the firm also had an exclusive cooperation relationship with Lefosse, an elite Brazilian law firm. That tie-up ended in 2012, when the Brazilian Bar Association explicitly forbade international law firms from practicing local law in the country.

These days, more than a dozen international law firms have lawyers positioned in Brazil, where competition for work is fierce.

Recurring clients for the firm from Brazil include Marfrig, one of the world's largest meat processors.

Poulter said the Linklaters team has sought to steady its Latin America practice, and to stand out, by diversifying its product offering.

Traditionally a capital markets shop, the team has gradually taken on more mergers-and-acquisition work over the past five years, while branching out into litigation, arbitration, investigations and financing.

"In Latin America, we have to be ambidextrous," said Poulter, explaining that many clients in the region want a holistic approach from their go-to lawyers.

ARGENTINA AIMS

Poulter anticipates that Minvielle will soon rise to partner, and that he will help coordinate the Linklaters Latin America practice alongside co-head Conrado Tenaglia, who is also an Argentine.

That means the three will make decisions together on staffing, client onboarding and resource allocation.

Cleary Gottlieb said in a statement that it wishes Minvielle "well in his future endeavors."

The additional Argentine connection comes at a pivotal moment for Latin America's third-biggest economy: the country is poised to select its next president in a November runoff election.

"Not many firms are really active in Argentina," said Poulter. "There's maybe a handful, and we luckily happen to be one of them and we've been capitalizing on that."

Some of Argentina's large corporate groups have become sources of repeat business for Linklaters, he said.

These Argentine clients have a consistent need for international advice because their financing is often best serviced via more robust international capital markets.

For example, Linklaters advised Argentine food-tech startup Moolec Science Ltd on its $325 million combination with LightJump Acquisition Corp., a Delaware based SPAC, and the January 2023 listing of a new holding company on the Nasdaq.

Moolec produces animal proteins from plants such as soy and peas in a process it calls molecular farming. The company has financial support from another Linklaters client, Nasdaq-listed seed company Bioceres Crop Solutions Corp.

Amy Guthrie reports for Law.com International, an ALM affiliate of the Daily Business Review. Contact her at aguthrie@alm.com.

Paul Weiss Could Adopt a Nonequity Partner Tier Starting in 2024

by Justin Henry

Partners at Paul, Weiss, Rifkind, Wharton & Garrison are mulling over the possibility of adding a nonequity partner tier as early as 2024, according to several people with knowledge of the firm.

The goal of making such a change would be to retain and attract counsel-level attorneys and senior associates tempted by offers to join competitor firms' partnerships at the nonequity level, the people said.

Also under consideration is the conversion of bonuses paid to highly paid equity partners into shares of the firm's profits, people familiar with the discussions said.

Under the firm's current modified lockstep compensation model, the firm's highest-paid equity partners, earning north of $20 million, receive a significant amount of pay in the form of bonuses rather than firm profits, according to people with knowledge of the firm's pay system. The change is being considered after the firm recruited a team of Kirkland & Ellis corporate partners, who could each make $20 million a year, The American Lawyer previously reported.

Representatives of Paul Weiss did not respond to requests for comment on proposed changes to the firm's partner structure or pay system.

Adopting a two-tier partnership would add Paul Weiss to the majority of Am Law 200 firms that have already done so, leaving only 25 that retain a single-tier partnership, such as lockstep holdouts Wachtell Lipton Rosen & Katz and Debevoise & Plimpton, according to annual survey responses to The American Lawyer.

In 2022, 47.7% of Am Law 100 partners held nonequity status, up from 46.4% in 2021, according to data gathered by ALM. In 2010, 37.9% of all partners held nonequity status.

Firm leaders and consultants cite a "Kirkland effect" as a major force driving large law firms like Paul Weiss to adopt a two-tier partnership. Kirkland & Ellis, the world's richest law firm, has leveraged its nonequity tier to profitable effect, they said.

"Having a tier of nonequity partners, depending on how big it is, can really turbocharge profits for the equity tier," said Matthew Bersani, founder of Cliff Group, who declined to comment on any specific firm's decisions. "And in an age when rainmakers are being paid $15 to $20 million per year, it's almost unsustainable without having that kind of engine of profitability that's represented by a nonequity tier."

Many elite law firms are now considering creating a nonequity tier, said consultant Kent Zimmermann, a principal at Zeughauser Group. Part of what drives that discussion, Zimmermann said, is the "benefit of a higher profit per equity number being reported by The American Lawyer."

"Some firms think it's more of a silver bullet than it is in practice, but firms who get the most out of it have a high degree of discipline in managing the non-equity tier," he said. "It's easier to create a second tier than manage it in a way that strengthens the firm."

Recruiters and consultants say the few firms who maximize the profitability of their nonequity tier make it a temporary place for partners to occupy before obtaining equity status, the "up or out" model, as recruiters and consultants refer to it.

At many firms, Zimmermann said, nonequity partners perform work that could be done at the same quality by senior associates. As a result, Zimmermann said, a nonequity tier can drag down the firm's profits and stifle the development of rising associates.

One of the more recent firms to make a similar move, Shearman & Sterling announced the expansion of its nonequity partnership in 2016, Law.com reported.

At the time, the firm said "consideration for non-equity status will depend on the development of the individual associate" and that there is no set period of time before someone can be elevated from nonequity to equity status.

"The new role will allow junior partners to grow into equity partnership and facilitate the continued growth of our practices globally," Shearman said.

Justin Henry covers business news and trends at law firms. Contact him at juhenry@alm.com. On X: @jstnhenry87.

PRACTICE FOCUS / LEGAL EDUCATION

AI in Law School: A Student vs. an Associate Dean Perspective

Commentary by Jill Backer and Samantha Lagos Sanchez

ASSOCIATE DEAN'S PERSPECTIVE

Law School is a time for a student to learn legal skills required for the practice of law. The promulgation of artificial intelligence (AI) and its use by law students would stymie the educational process of the law school curricular and noncurricular learning. Therefore, let us allow law students to learn the proper skills and habits of a lawyer before offering unreliable short-cuts to the mix. In fact, utilization of AI short-cuts can lead to ineffective and unethical results.

Backer

The role of AI and especially ChatGBT could be a game changer in legal education on the same scale that the introduction of personal computers changed legal education. Having answers to legal questions at your fingertips is convenient and easy using ChatGBT but it is NOT reliable. Using ChatGBT is not only like handing in someone else's work product but not knowing if that work product is from a good student! Law schools must be clear with their Honor Code language that ChatGBT cannot replace learning and cannot be used ethically in the student's work.

Learning innovative technology has been a hallmark of any proper legal education over the last 30 years. From learning to utilize electronic legal research tools such as WestLaw and Lexis to electronic filings with the courts, law students have led the way in the firms they joined with their digital native status. Law school does not enable Luddites, instead seeking to create a more efficient and thoughtful approach to learning legal skills for a new millennium.

Use of ChatGBT has been discussed for law school application essays, cover letters to employers and law school assignments. Many Law schools are beginning to ask the students to certify that their submissions are their own work and not that of another or AI. The ramifications of not certifying truthfully could be a rescinding of their admission or employment offer. This type of certification brings up a whole slew of other issues namely that there are no foolproof ways to detect the use of ChatGBT and even if there were the technology is so fast evolving that the system would outwit any program designed to detect it quickly.

Law Schools seek to teach legal writing as the number one skill that employers seek—allowing students to move through law school relying on a machine to do their writing would be a disservice to the student and the legal market. We must have law students learn the necessary skills before allowing short cuts. Surely the ABA and other education governing bodies will have their say on the issue of AI, but the same as the rest of the world, their regulations are dragging their feet behind the fast evolution of this technology. Until such time as there are guardrails on this technology, students should not employ it in their education.

BOARD OF CONTRIBUTORS

STUDENT'S PERSPECTIVE

Law school can be both exhilarating and overwhelming for students. The sheer volume of cases to read, legal concepts to grasp, and the pressure to excel in a highly competitive environment can often feel like a daunting task. However, in recent years, there has been a significant ally in the form of Artificial Intelligence (AI) that has made life easier for law students. From research assistance to exam preparation, AI is proving to be a game-changer in the world of legal education, enhancing the learning experience for students in numerous ways.

One of the most significant advantages of AI for law students is its ability to streamline the research process. AI-powered legal research platforms like Westlaw and LexisNexis have become indispensable tools for students. These platforms allow students to quickly find relevant cases, statutes, and legal articles, saving them hours of sifting through stacks of books and documents in a library. Students can plug in their existing case briefs and make sure they have cited to the most relevant law. This not only makes research more efficient but also ensures that students have access to the most up-to-date legal information.

AI programs like Grammarly have also revolutionized the way law students review legal documents. Legal writing is a cornerstone of legal education, and AI can be a valuable assistant in this regard. AI-powered writing tools can help students improve the clarity and coherence of their legal writing, providing suggestions for better sentence structure, grammar, and legal terminology. These tools are especially useful for students who may not have a strong background in writing or grammar. Document review tasks, which were once labor-intensive and time-consuming, can now be automated using AI-powered software. Students can use tools like Gavel or Legal Document Automation by Contract Express to analyze contracts, identify key terms, and even spot potential issues, thereby honing their skills in contract analysis and legal writing.

AI has also found its way into the realm of exam preparation. There are AI-driven platforms, like AdaptiBar, that offer practice exams and assessments tailored to specific law courses and bar exams. These tools can help students gauge their readiness, identify areas of weakness, and focus their study efforts accordingly. They can even provide real-time feedback on practice essays and multiple-choice questions.

From research to exam preparation, AI has become an indispensable tool for law students, enhancing their learning experience and helping them excel in their studies. AI can never replace the critical thinking and analytical skills that are the hallmark of a legal education, but it can certainly provide invaluable support and make the journey through law school a more manageable and efficient one. While it is not advisable to have AI programs like ChatGPT write entire briefs—something that can carry liability for those that choose to do so—it is undeniable that AI can improve the lives of law students and lawyers alike.

Jill Backer is the associate dean of professional development at Ave Maria School of Law in Naples, Florida. Samantha Lagos Sanchez is a 3L law student at the law school.

FROM THE COURTS

Ruling Sheds Light on 'Exclusivity Provision' in Employment Lawsuits

by Emily Cousins

STOCK.ADOBE.COM

A Connecticut appellate court said a review of the evidence showed that the defendant was aware of the risks of asbestos exposure before the plaintiff began his employment, and "a jury could reasonably infer that the employer subjectively believed that its conduct was substantially certain to result in injury to its employees."

The Connecticut Appellate Court reversed a summary judgment order in favor of an asbestos product manufacturer which allegedly exposed an employee to asbestos that resulted in his death by mesothelioma.

The plaintiff, Lana Kelly, as executor of the estates of Harold Dusto and his wife Anita Dusto, argued in her appeal that her claims against Rogers Corp. were not barred by the exclusivity provision of the Workers' Compensation Act, which has narrow exceptions controlling employees suing their employer for work-related injuries.

Kelly also argued that the lower court improperly dismissed her claims against Special Electric Company Inc., a supplier of asbestos.

Christopher Meisenkothen of Early, Lucarelli, Sweeney & Meisenkothen, counsel for the plaintiff, did not respond to a request for comment.

Kelly prevailed on her first claim, and the Appellate Court concluded that there is a genuine issue of material fact "as to whether her claims against Rogers satisfied the substantial certainty exception to the exclusivity provision of the act."

But the Appellate Court affirmed the dismissal for lack of subject-matter jurisdiction of the plaintiff's claims against Special Electric.

Counsel for Special Electric, Cristin E. Sheehan and Robert S. Bystrowski of Morrison Mahoney, did not respond to a request for comment.

The trial court ruled that while the plaintiff provided many exhibits in opposition to Rogers' motion for summary judgment, the evidence might show Rogers acted "negligently or even recklessly," but it did not "rise to the level of the exceedingly high substantial certainty standard."

The appellate court had a different view, and stated its review of the evidence showed Rogers was aware of the risks of asbestos exposure before Dusto began his employment, and "a jury could reasonably infer that the employer subjectively believed that its conduct was substantially certain to result in injury to its employees."

Counsel for Rogers, Melissa M. Malloy, Mark J. Hoover and Judith A. Perritano of Pierce Davis & Perritano, did not respond to a request for comment.

DISSENT

Judge Eliot D. Prescott agreed with the majority's dismissal of the claims against Special Electric, but said the trial court was correct to grant Rogers' motion for summary judgment.

"To fall within the narrow exception and avoid summary judgment, an employee bringing a tort action against an employer for work-related injuries must produce some evidence from which a jury reasonably could conclude that the employer knew with such a high degree of certainty that the employee would be hurt as a result of some intentional act of the employer that the law will treat the employer as if it actually intended the harm," Prescott wrote.

In addition, Prescott said plaintiffs are "rarely successful" when attempting to overcome the exclusivity bar.

The plaintiff's "evidence that a 'predictable percentage of exposed workers' would, over some undefined period of time, develop some asbestos related occupational disease does not raise a genuine issue of material fact that the defendant engaged in the particular acts or omissions alleged by the plaintiff with the direct intent to injure or the knowledge or belief that Dusto was *substantially* certain to fall victim to those statistics," Prescott wrote.

While Prescott conceded that a reasonable jury could find that the defendant was intentional "when it suppressed information regarding the dangers of asbestos, ignored clear warnings to the contrary, and tolerated poor air quality standards in its facilities," there is no evidence Rogers was certain Dusto would be diagnosed with mesothelioma years later.

"To satisfy the substantial-certainty standard," Prescott wrote, "an employer must both have 'intended the act and have known that the injury was substantially certain to occur from the act.'"

Emily Cousins reports for the Connecticut Law Tribune, an ALM affiliate of the Daily Business Review. Contact her at ecousins@alm.com.

Giuliani Wants Davidoff Hutcher Lawsuit Over Unpaid Fees Dismissed

by Emily Saul

Rudy Giuliani says Davidoff Hutcher & Citron doesn't have standing to sue him for over $1 million in unpaid legal fees in a new motion to dismiss filed by the former New York City mayor and U.S. Attorney for the Southern District of New York.

The firm sued Giuliani in September over the $1.36 million in unpaid legal fees in connection with representation in multiple cases.

In a motion to dismiss written by Giuliani, representing himself, the embattled lawyer says the firm lacks standing because the retainer agreement was between himself and partner Robert Costello.

The complaint states that Giuliani executed an agreement with his longtime friend Costello in 2019, agreeing to a retainer of just over $1.5 million, but has paid out just $214,000. It alleges three causes of action: breach of contract, account stated, and quantum meruit.

"For purposes of this motion, Defendant Giuliani must accept these facts as true, but to be clear, he denies the allegations in the Complaint, including, but not limited to that he ever received the invoices at issue and that sum of $1,360,196 accurately represents the fees that were incurred," Giuliani wrote in the motion.

Giuliani argues the complaint fails to state how the invoices were sent, and that the claim for quantum meruit is duplicative of the breach of contract claim.

The action was filed by DHC associate Joseph Polito.

Giuliani is currently facing more than 10 civil lawsuits and is indicted in the sweeping racketeering case brought by Fulton County District Attorney Fani Willis.

His law license has been suspended in New York, and a D.C. Ethics panel in July recommended he be disbarred.

Emily Saul reports for the New York Law Journal, an ALM affiliate of the Daily Business Review. Contact her at esaul@alm.com.

Rudy Giuliani says Davidoff Hutcher & Citron doesn't have standing to sue him for more than $1 million in unpaid legal fees.

REAL ESTATE

Next-Generation Perks That Office and Industrial Tenants Want

by Kathryn Hamilton

In both the office and industrial sectors of the commercial real estate industry, the nature, scope, and necessity of up-to-date amenities will be a driving force in lease discussions, according to a panel at NAIOP's CRE.Converge commercial real estate conference, which took place this week in Seattle.

The panel was moderated by Dawn Riegel, principal, Ware Malcomb, and included panelists Michael Longo, senior vice president, CBRE; Stacey Mosley, director of research, Brandywine Realty Trust; and Jinger Tapia, vice president, design, Ware Malcomb.

The panel presented a ranking of the amenities that are gaining momentum. In order of popularity:

- Hybrid work
- Work-life balance
- Wellness initiatives

Culture/pride in place

- Shared desks
- Location-agnostic hiring
- Live, work, play communities
- Sustainability
- Smart buildings

In the office sector, certainly the race is on to create a workplace that employees want to make the effort to get to, given the ease and ability to work from home.

Those features may be as simple as a welcoming environment with sophisticated coffee drinks. But it's more than that.

Mosely said that "from a campus perspective, one of the things that we've always leaned into is having civic commons. We have always taken that approach and are now taking a closer look at what those next steps mean for outdoor space. Post-pandemic, people appreciate going outside."

That means that parks and open spaces outside the office facilities need to be considered a part of the overall design.

With some employees coming into the office a few days per week, they should be considered as visitors to the area, so that offices will be located near a full supply of restaurants and shops, the panel said.

Social activities are also a key component with surveys showing that employees are interested in participating in community based, "giving back" activities.

Cost is always a factor, and landlords must determine which specific amenities can be provided for tenants that also can be used by the next tenant. That consideration could lead to a model that is similar to co-working: multiple tenants could share conference rooms and relevant technologies.

On the industrial side, several factors are driving an amenity upgrade as well, including employee wellness initiatives, and the increasingly prominent role that cities and municipalities play in the design and aesthetic of new facilities.

For employees, a plot of grass with a picnic table for smokers is not going to cut it anymore. Even with the red-hot industrial market, employees have leverage in seeking areas to take a break from work, relax and be mindful. Or, to take advantage of a lunchtime break on a volleyball court.

The dearth of land for industrial and the declining demand for many office properties, particularly older, Class B space, would seem to be a winning formula for industrial development.

However, as many of the older offices are located in urban or even residential areas, public officials are wary of the design.

"There's an aesthetic demand," said Tapia. "The most important or human aspect is really at the entryway. We'll add more glass, closet space, employee areas. It needs to look like an office building."

She said new projects will also have increased landscaping, added parks, and community benefits to combat the not-in-my-backyard attitude that some people have toward industrial real estate.

The technology front is still evolving, the panelists said, with some companies using heat maps to assess where and how buildings are being used. Others are experimenting with mobile apps,

ADOBE STOCK

The nature, scope and necessity of up-to-date amenities in the commercial real estate industry will be a driving force in lease discussions.

which have their uses and perhaps overuses. Do employees really need an app to order a cup of coffee?

"I think we still have a ways to go on that front," Mosley said. The ones that are most important are related to audio-visual.

Regarding technologies, and all amenities, she said, "you really want to make sure that's a seamless experience."

If employees are going to come to work, either in industrial or office properties, the one certainty is that landlords and employers will have to provide both what they need and what they want – maybe not volleyball or shuffleboard, but game changers, nonetheless.

Kathryn Hamilton is vice president of marketing and communications for NAIOP.

Investors Weigh Debt and Equity Amid Economic Uncertainty

by Natalie Dolce

During a recent panel discussion featuring institutional investors at the GlobeSt. Multifamily Fall Conference here last week, the conversation turned to their current investment strategies. Robin Potts, a partner and the Chief Investment Officer at Canyon Partners Real Estate LLC, revealed that her company has been quite active in the debt market lately. In contrast, their involvement on the equity side has been minimal this year, aligning with broader industry trends. She explained, "We've observed banks reducing their leverage levels by anywhere from 15% to 25%, a significant shift. Consequently, we are focusing more on debt-related opportunities."

The conversation also moved into what some of the challenges facing the office sector are today and the potential repercussions for the broader market and multifamily investments. Stanley Iezman, Chairman and CEO of American Realty Advisors, expressed deep concern, labeling the situation as an existential risk within the marketplace.

Iezman anticipated widespread devaluation of office properties, primarily due to a looming wave of property maturities. He also emphasized that investor uncertainty is currently the most substantial threat to the market, stating, "Investors are likely to prioritize safe, high-yield treasury investments over real estate. Our industry relies heavily on institutional capital, and I'm apprehensive that debt will take precedence over equity for a significant period."

Potts agreed, emphasizing that the hidden anxieties and uncertainties among investors pose a substantial risk to the market: "The hesitancy and 'wait-and-see' approach are the most prominent challenges at present."

When asked about the factors that inspire hope among the panelists, Potts highlighted the presence of capital seeking opportunities in multifamily, but she stressed the necessity for increased market certainty. She added, "Capital will return when there's more stability."

Hailey Ghalib, Executive Managing Director and Head of Housing Investment and Development at Affinius Capital, added a positive perspective by noting that shelter remains a fundamental human need. She pointed out that many markets are grappling with housing undersupply, which could benefit the multifamily sector as a whole.

Iezman echoed this sentiment, underlining the importance of finding effective ways to provide affordable housing to meet the ever-growing demand.

Natalie Dolce is editor-in-chief of GlobeSt.com, an ALM affiliate of the Daily Business Review.

Here Are the ZIP Codes With the Most Multifamily Construction

by Philippa Maister

Neighborhoods in cities with lively social scenes, good amenities, and prime locations are reaping the benefits of the flood of new multifamily construction that has come on the market in recent years.

Some 1.2 million new rental units have been delivered since 2018, according to an analysis by RentCafe, and a few zip codes with above-average incomes and younger populations have been the winners by the number of new units added.

Two zip codes in Washington, DC claimed the largest number of new rentals. Zip code 20002, which incorporates the U.S. Capitol and includes the H Street Corridor, saw the most construction in the nation. Its location places it "at the heart of political, cultural and social scenes," RentCafe noted. Median income is $79,460 and the median age of 33.5 years has additional appeal for young renters. Land available made it a good candidate for development: the 7,378 units added represented a 73% increase over the five years.

The adjoining zip code 20003 came in second nationally. It includes Capitol Hill and Capitol Riverfront and has a median household income of $116,000 and median age of 34.5. High-end rentals made up many of the 7,225 units added — a 122% increase during the period. Zip code 11101 in Queens, NY, followed in third place. Its location on the East River offers exceptional views of the Manhattan skyline and arts and cultural scenes, adding to its appeal, RentCafe noted. Some 7,000 new apartments have been added in five years, a 73.5% increase. Its population, with a median income of $87,264, has a median age of 34.

The Gulch/West End zip code 37203 in Nashville ranked fourth. It saw 6,806 new apartments added in the period, virtually double the previous total. Its location near much of the cultural and musical action as well as universities, colleges and medical centers, attracted the 31.5-year-old age group, and median income was $52,083.

Frisco, TX zip code 75034 took fifth place. The area, which RentCafe points out houses some major corporations and a highly rated school system, making it attractive for young professionals and families with children. Median income stood at $65,816 and the median age was 35.6. The number of apartments rose 70% to 5,872, virtually all high-end rentals. Though all of the 50 zip codes RentCafe analyzed more than doubled their multifamily inventories in the period, four stood out for their percentage increase – three in Florida. Zip code 33132 in Miami enjoyed a 354% boost – "a combination of a great location, waterfront access, and a variety of housing options," RentCafe said. Zip code 32751 in Maitland, which is part of the greater Orlando area, raised its apartment output by 274% to put it in second place, while Panama City, zip code 32405, came fifth with a 190% increase.

Virginia zip code 23230, which includes Richmond, ranked third, rising 235% from a base of 1,100 rental units. A 216% apartment growth in zip code 27526, Fuquay Varina, NC, helped it to fourth place.

"This surge not only means more options for renters, but also potentially better deals, as well as living spaces equipped with modern amenities and designs," RentCafe commented.

Philippa Maister is a freelance business and legal writer.

COMMERCIAL REAL ESTATE

What's Next for Commercial Real Estate With High Treasury Yields?

by Richard Berger

The 10-year US Treasuries rate hit 5% this week and that has commercial real estate investors rightfully concerned, according to a new news video by Marcus & Millichap.

Because even though the Fed has likely concluded its cycle of rate increases, the commercial real estate sector could still face significant interest rate headwinds, according to John Chang, its National Director of Research and Advisory Services.

He explains that most real estate lending is based on the 10-year Treasury, and over the last 90 days, the 10-year has climbed 120 basis points to the upper 4% range. It closed at 4.961 on Wednesday.

This, in turn, has pushed the single-family 30-year mortgage rate to the 8% range, driving home sales activity to its lowest level since 2010.

Additionally, commercial real estate lending rates have been on the rise, Chang said.

They now range between about 6.5% and 7.5%, depending on the property type, location, leverage, borrower strength, and a variety of other factors.

Chang said numerous forces are affecting long-term interest rates. First, the US Treasury has been issuing more debt.

In the past two quarters, the US Treasury has issued $1.9 trillion in Treasuries, which is triple the 10-year average issuance of $630 billion per six-month cycle.

This has been complicated by a reduction in demand for US Treasuries, Chang said, which leads me to the second driver of rising 10-year Treasury rates, reduced buy-side demand.

China has been downscaling its US Treasury holdings. Since the beginning of the year, China's US Treasury balance has declined by about 7% from $867 billion to $805 billion, and they have not been buying as much as they have in the past.

Likewise, the Federal Reserve has reduced its acquisitions.

Beginning in June last year, the Federal Reserve began its quantitative tightening program.

ADOBE STOCK

The commercial real estate sector could still face significant interest rate headwinds, according to Marcus & Millichap.

Since then, the Fed's holdings of US Treasuries have fallen by $843 billion, which is greater than China's entire holding of US Treasuries.

"Granted, the Fed still holds two and a half trillion dollars more in Treasuries than they did prior to the pandemic, but as they bleed off their holdings, there are fewer Treasuries buyers, and that's putting upward pressure on rates," Chang said. "And rates could still push higher."

He said if a federal budget resolution is not in place by Nov. 17, things "could be very difficult" as the US government could go through a shutdown.

If rates on Treasuries rise, then in turn, that would push up commercial real estate lending rates.

"But higher rates are not a foregone conclusion," Chang said. "If the House of Representatives somehow averts a shutdown, that could help contain interest rate pressure."

For the commercial real estate market, a rising 10-year Treasury could create additional headwinds, he said.

"The market is still in the process of recalibrating to the Fed's rate hikes, and further rate increases could widen the buyer-seller expectation gap," according to Chang. "Even if the Federal Reserve is done raising the overnight rate, the 10-year, upon which most commercial real estate lending is based, could continue to climb."

Ultimately, Chang said, commercial real estate investors need to focus on the long-term outlook.

"Even if rates rise over the short term, it's unlikely they'll remain elevated over the long term," Chang said. "Additionally, commercial real estate space demand should strengthen when the US enters the next growth cycle."

Richard Berger reports for GlobeSt.com, an ALM affiliate of the Daily Business Review.

Is Commercial Real Estate Really Coming Around to ESG?

by Nicki Howell

The past few years have brought many changes to the commercial real estate industry, some of which are tied to environmental, social, and governance (ESG) initiatives. As stakeholders turn their attention to ESG, many organizations are focusing heavily on the E and G, with less emphasis on the S.

"Much focus has been placed on environmental and governance initiatives — and one of the reasons is they are much easier to measure," says Wendy Mann, CEO of CREW Network. "But the social aspects are also critical, even though tracking them isn't always straightforward."

According to Mann, increasing focus on all areas of ESG, including social, is closely tied to performance and success. A McKinsey & Company study found that ESG appears to improve performance and profitability over the long term, but transformation requires a willingness to shift from the status quo.

FULLY EMBRACING ESG

The commercial real estate industry has a decent amount of work to do to educate the workforce on ESG, explains Mann. A recent CREW Network research paper found that one in three industry professionals reports knowing "very little to nothing" about ESG. A little more than half said they know enough to get by, which, according to Mann, is pretty low.

Survey results also showed that 76% of industry professionals say ESG is either "somewhat" or "very" important to their companies — and 24% said that it's not important at all. Those who said it wasn't important reported that it simply isn't a business priority. In addition, only 47% of CRE companies have ESG plans or strategy in place. Of the remaining 53% of companies that don't have an ESG strategy, 23% don't intend to create one.

Increasing focus on all areas of ESG, including social, is closely tied to performance and success, according to Wendy Mann, CEO of CREW Network.

"Another large consideration is the difference between private versus public firms," says Mann. "There's more of a push in public companies than in private, and a reason is that for many private firms, ESG is still a 'nice to have' versus a 'must have.'"

Mann notes that other parts of the world, such as Europe, that have more fully embraced ESG are also heavily regulated. "If we show a willing commitment to ESG initiatives, it might help the industry avoid more dire regulations — which is something to consider."

STARTING FROM THE TOP DOWN

As organizations consider the next best steps with ESG, Mann recalls an expression from a previous manager that underscores that meaningful change needs to start at the top.

"I had a boss that once told me, 'Wendy, the fish rots from the head down,'" says Mann. "And that means that if the head of an organization isn't walking the talk, not holding its executive team accountable, you're not going to see that change below — everyone must embrace the commitment."

Mann recommends looking at what others are doing in the industry to spark ESG change. However, she cautions against saying, "'OK, we've done these five things; now we're done.' You need to keep on pushing."

Nicki Howell is a freelance writer with more than a decade of experience writing about credit unions, finance, commercial real estate and technology.

Recognizing Commercial Real Estate's Best Places to Work

by Ingrid Tunberg

Companies today increasingly focus on workplace credibility and the well-being of employees – A trend that has not been overlooked by the commercial real estate industry.

While achieving outstanding performance and exceling within the industry, many commercial real estate organizations are furthering their efforts to ensure employee satisfaction by staying on top of workforce trends, re-imagining workspaces, evolving practices, implementing new policies, and offering opportunities in regards to diversity initiatives, community outreach and family-friendly environments. Such companies also strive to accommodate staff by offering enhanced communication, transparent, long-term outlooks, thoughtful employee engagement programming and complimentary offerings.

Organizations are continuing to recognize that not only are these offerings now imperative to professionals, but they are equally as essential to the success of their business. By earning employees' respect and enabling them to strive for success, these firms in-turn achieve outstanding results within the industry.

With this in mind, GlobeSt. is looking to identify and recognize commercial real estate's most respected and rewarding workplaces for the 2024 CRE's Best Places to Work recognition. As a trusted source of insight into the commercial real estate community, GlobeSt. will determine what makes these organizations "the best" by evaluating information and data collected from the viewpoints of employees.

Ingrid Tunberg reports GlobeSt.com, an ALM affiliate of the Daily Business Review. Contact her at itunberg@alm.com.

CITY OF DORAL
NOTICE OF ZONING WORKSHOP

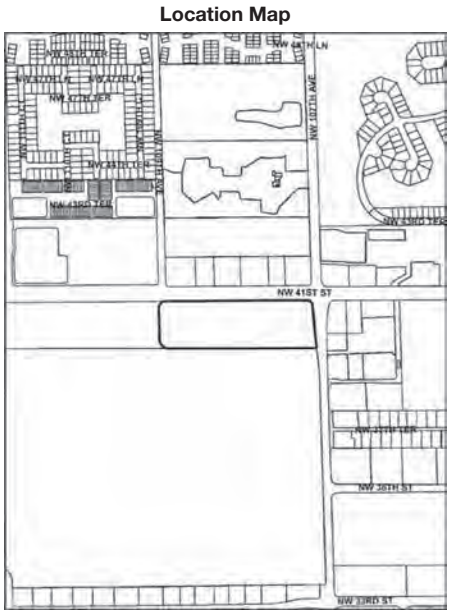
All residents, property owners and other interested parties are hereby notified of a **Zoning Workshop** on **Tuesday, November 14, 2023 at 6:00 p.m.** The Meeting will take place at the City of Doral, Government Center, 1st Floor Multipurpose Room located at 8401 NW 53rd Terrace, Doral, Florida, 33166.

The following application will be presented:

HEARING NO.: 23-11-DOR-02
APPLICANT: Doral Marketplace, LLC (the "Applicant")
PROJECT NAME: Doral Marketplace Parking Variances
PROPERTY OWNER: Doral Farms, LLC
LOCATION: Southwest corner of NW 107 Avenue and NW 41 Street
FOLIO NUMBER: 35-3030-000-0020
SIZE OF PROPERTY: ±10.05 acres
FUTURE LAND USE CATEGORY: Business
ZONING DISTRICT: Commercial Corridor District (CC)
REQUEST: The Applicant is requesting the following variances in connection with the proposed Doral Marketplace Retail Site Plan to permit:

- a setback of 24-feet from the property line fronting Doral Boulevard, where a 40-foot setback is required pursuant to the Doral Boulevard Master Plan for 27 parking spaces adjacent to the primary grocery tenant building (a reduction of 16 feet).
- parking space lengths of 18-feet, where 19-feet of parking space length is required pursuant to Section 77-185(a) of the City Code (a reduction of 1 foot).
- elimination of 2 parking row landscape strips, and reduction of 2 additional parking row landscape strips to 4.4-feet and 5.2-feet, where a 7.5-foot landscape strip is required for each parking row pursuant to Section 77-193(2)(d) of the City Code. Also, to provide a 3.2-foot parking landscape strip along an additional parking row where 5-feet is required, pursuant to Section 77-193(2)(d) of the City Code.
- the elimination of parking area perimeter landscape buffer width in certain areas and providing for a 5-foot parking area perimeter landscape buffer width in other areas, where a 7-foot perimeter landscape buffer is required pursuant to Section 77-193(1) of the City Code.

Location Map



ZONING WORKSHOP PROCESS: The zoning workshop consists of two sessions:

1. First Session. The first session of a zoning workshop shall provide a forum for members of the public to learn about proposed developments within the city. Developments may be presented to the public simultaneously, in several locations within the meeting site. During this session, members of the public are encouraged to ask questions and to provide feedback to the applicant about the proposed development. The applicant shall provide visual depictions, such as renderings, drawings, pictures, and the location of the proposed development. In addition, representatives of the applicant shall be available to answer questions that members of the public may have about the proposed development. The members of the City Council shall not be present during the first session of the zoning workshop.

2. Second Session. The second session of a zoning workshop shall provide a forum for the City Council to learn about the proposed developments discussed at the first session of the zoning workshop. No quorum requirement shall apply. Developments shall be presented by the applicants sequentially, one at a time, for the City Council's review and comment. The applicant shall again present visual depictions of the proposed development. In addition, the applicant shall be available to answer any questions that members of the City Council may have about the proposed development.

No quorum requirement shall apply nor will any vote on any project be taken, but roll call will be taken, as it is a publicly noticed meeting.

Information relating to this request is on file and may be examined in the City of Doral, Planning and Zoning Department located at **8401 NW 53rd Terrace, Doral, Fl. 33166.** Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide translation services during the zoning application process or during any quasi-judicial proceeding.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento o durante el proceso de solicitudes de zonificación.

Connie Diaz, MMC
City Clerk
City of Doral

10/27 23-62/0000691203M

BUSINESS

Women Lawyers Want Far More Support for Menopause Care

by Maria Dinzeo

A recent panel on women's health, part of ALM Global's Women, Influence & Power in Law conference in New Orleans, dove into how women can combat the stigma of menopause and advocate for what they need from their employers.

It was a groundbreaking discussion, given that the topic has long been taboo to discuss in the workplace, despite that more than 30 million American workers are going through menopause at any given time.

Last year, a United Kingdom advocacy group released a report that found 1 in 10 women quit their jobs because of menopause symptoms, and Deloitte's recent "Women at Work" report said one in five women struggle with health challenges from menstruation or menopause, with many continuing to work through the pain and discomfort. Those who do take time off feel uncomfortable disclosing that menstruation or menopause as the reason.

Allison Schwartz, executive vice president and general counsel of fertility benefits provider Progyny, said during the panel discussion that more employers are offering insurance coverage for menopause-related conditions.

The shift is employee-driven, she said, as firms reevaluate their offerings amid rising health care costs, employers are looking for and responding to feedback from employees on what types of coverage will make a real impact.

As a result, a rising number of companies are offering coverage for fertility treatments and surrogacy. Menopause coverage also tripled since last year, from 4% to 19%. "It's still not close to the majority of employers, but we're seeing big shifts there because it's an important, necessary benefit," she said.

Menopause can start anywhere from age 41 to 55, and its symptoms run the gamut—hot flashes, night sweats, trouble sleeping, mood swings and memory and concentration problems known colloquially as brain fog—the whole "panoply of fun," as Schwartz wryly described it.

Menopause benefits center around building specific networks of doctors trained to help guide patients through choosing how to address these symptoms, be it through hormone or non-hormone therapy, bone density medications or treatments for insomnia.

"Getting really tailored support is important," Schwartz said. "So that when you go to get care, it's not 'carry a fan with you everywhere, or dress in layers. Have you tried to meditate through your hot flashes?'"

While women make up around 56% of the nationwide workforce, according to the Bureau of Labor Statistics, insurance coverage for woman-specific health conditions, like menopause, fertility, PCOS or endometriosis is still considered an add-on, rather than a default benefit.

Panelist Nina Blackshear, director and corporate counsel at the biopharmaceutical company Incyte, said women's health care coverage has lagged at least in part because women are still underrepresented in the higher echelons of corporations.

SHUTTERSTOCK

Menopause continues to be a taboo subject in the workplace, even as millions of employees go through it every year.

"Women start to sort of fall out of the ranks as you go up to the top," she said, meaning they often are not among the decision-makers when a company decides what to put in its benefits package or what to leave out to save money. "We're still playing catch-up in that way, that's part of the reason why it lags."

There's also a lot of worry around oversharing about health issues. Blackshear said that when she was experiencing her own fertility challenges, she didn't want to say anything to her manager at first, though she eventually did speak up. "It's a balance between wanting support and what you really want to disclose and keep private and not have everybody all up in your business," she said.

A recent Bank of America study of around 2,000 female employees aged 45 to 60 found that women tend not to discuss their menopause symptoms with HR. It also found that 70% of women see it as their responsibility, rather than their employers' responsibility, to address the impact of menopause on the workplace.

During the panel, an attorney with management responsibilities said she tends to keep her employees' health issues, like depression, infertility and miscarriages secret from HR, both to protect their privacy and shield them from possible adverse impacts.

"It would be great if there were sort of clear understandings about how we can be advocates and resources for people who need help on issues they don't feel comfortable talking about, particularly women who are afraid to talk about that stuff," she said.

Schwartz advised that people in leadership talk to HR proactively "when you're not seeking something for a specific person, when there is no kind of crisis that you need to handle right away" to lay the groundwork for an official policy on how to accommodate employees when they need to leave work early for a doctor's appointment, or work remotely because of a medical issue.

Maria Dinzeo reports for Corporate Counsel, an ALM affiliate of the Daily Business Review. Contact her at mdinzeo@alm.com.

BANKING/ FINANCE

Stocks Pare Losses After GDP; Euro Retreats: Markets Wrap

by Rita Nazareth

Stock futures pared losses after data showed the U.S. economy expanded the most since 2021. The euro remained lower after the European Central Bank kept rates unchanged as expected.

S&P 500 contracts fell 0.4%. Treasury two-year yields, which are more sensitive to imminent policy moves, were little changed at 5.1%. Facebook parent Meta Platforms Inc. sank after dashing investors' hopes for a long-term advertising recovery. United Parcel Service Inc., a barometer of economic growth, cut its profit target. Southwest Airlines Co. is slowing growth plans for next year and warned that inflation and higher labor expenses are putting pressure on its costs.

The so-called Magnificent Seven technology companies that have powered this year's U.S. stock rally are posting disappointing earnings, wiping $200 billion off their market value and threatening to push the S&P 500 into a correction.

Aside from Meta, Google owner Alphabet Inc. and Tesla Inc. have also slumped since reporting, with Microsoft Corp. the only bright spot. Amazon.com Inc. publishes results after the close Thursday, and the options market is implying a one-day move for the stock of 8.1% in either direction, putting about $100 billion in market value in play.

"Earnings season has left much to be desired as typically economically sensitive stocks, that have held up well against a difficult backdrop, begin to creak under the pressure," said Geir Lode, head of global equities at Federated Hermes Ltd. "Good results are no longer enough for these economically sensitive stocks to gain traction as investors are concerned about a weaker macroeconomic backdrop."

CORPORATE HIGHLIGHTS:

• International Business Machines Corp. reported better-than-expected sales and affirmed its full-year outlook, suggesting the company's focus on software and hybrid cloud services is paying off.

• The United Auto Workers reached a tentative labor agreement with Ford Motor Co., putting pressure on the carmaker's two chief rivals to end a protracted strike that has cost the industry billions of dollars.

• Stellantis NV says its $1.1 billion deal for a stake in a Chinese electric vehicle maker will help it offer more affordable EVs and gain an edge on rivals bracing for an onslaught of cheaper exports from the country.

• Royal Caribbean Cruises Ltd. raised its full year profit outlook for a second time this year amid continued demand for cruises.

• First Citizens BancShares Inc., the regional lender that acquired Silicon Valley Bank when it failed in March, said deposits beat estimates helped by growth in its direct bank channel.

• Harley-Davidson Inc.'s third-quarter profit missed estimates and sales plunged amid elevated borrowing costs in the U.S. and economic weakness around the globe.

• Comcast Corp. reported higher earnings, boosted by its theme parks and broadband business, even as cable-TV subscribers continued to ebb away.

• Hertz Global Holdings Inc. missed profit estimates as it grapples with higher depreciation costs for its vehicles, which were unusually low in 2022.

• Bristol-Myers Squibb Co. fell in premarket trading after the company pushed back its forecast for a new crop of drugs reaching $10 billion in sales, raising investor concern about how soon the company can recoup lost ground after one of its top drugs went off patent.

• Bunge Ltd. raised its earnings outlook after posting third-quarter profits that blew up beyond the highest estimates.

• Siemens Energy AG is in talks with the German government about securing as much as €16 billion ($16.9 billion) in state guarantees as problems at its wind-turbine unit spread to the rest of the business. Shares plummeted 40%.

• Derivatives that protect against a default by Country Garden Holdings Co. were triggered after the troubled Chinese developer didn't pay interest on a dollar bond.

In geopolitical news, Israel's military said it made a limited ground raid into northern Gaza with infantry and tanks, before withdrawing, as it kept up airstrikes on the besieged territory. A series of Israeli incursions have previously sought to gather intelligence on Hamas and hostages.

Key events this week:

• China industrial profits, Friday.

• Japan Tokyo CPI, Friday.

• U.S. PCE deflator, personal spending and income, University of Michigan consumer sentiment, Friday.

• Exxon Mobil earnings, Friday.

Some of the main moves in markets:

STOCKS

• S&P 500 futures fell 0.5% as of 8:35 a.m. New York time.

• Nasdaq 100 futures fell 0.7%.

• Futures on the Dow Jones Industrial Average fell 0.2%.

• The Stoxx Europe 600 fell 0.5%.

• The MSCI World index fell 0.4%.

CURRENCIES

• The Bloomberg Dollar Spot Index rose 0.2%.

• The euro fell 0.2% to $1.0541.

• The British pound was little changed at $1.2102.

• The Japanese yen was little changed at 150.32 per dollar.

CRYPTOCURRENCIES

• Bitcoin fell 1.2% to $34,265.19.

• Ether rose 1.7% to $1,818.45.

BONDS

• The yield on 10-year Treasuries declined two basis points to 4.93%.

• Germany's 10-year yield declined three basis points to 2.86%.

• Britain's 10-year yield declined two basis points to 4.59%.

COMMODITIES

• West Texas Intermediate crude fell 2.6% to $83.13 a barrel.

• Gold futures fell 0.1% to $1,992 an ounce.

Rita Nazareth reports for Bloomberg News.

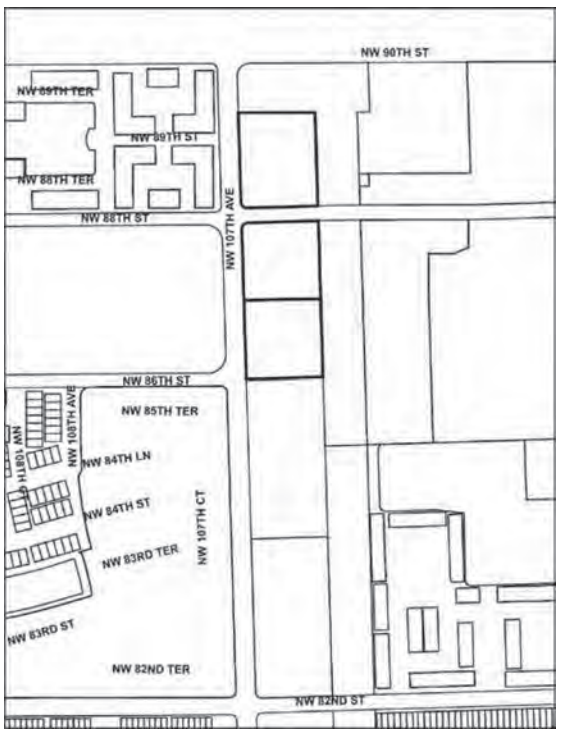
CITY OF DORAL
NOTICE OF ZONING WORKSHOP

All residents, property owners and other interested parties are hereby notified of a **Zoning Workshop** on **Tuesday, November 14, 2023 at 6:00 p.m.** The Meeting will take place at the City of Doral, Government Center, 1st Floor Multipurpose Room located at 8401 NW 53rd Terrace, Doral, Florida, 33166.

The following application will be presented:

HEARING NO.: 23-11-DOR-01
APPLICANT: MTD Unit 3 503, LLC/ DelCop Group LLC (the "Applicant")
PROJECT NAME: Midtown PUD Modification Phases IV, V, and VI
PROPERTY OWNER: MTD Unit 3 503, LLC / DelCop Group, LLC
LOCATION: Generally located east of NW 107 Avenue and situated to the north and south of NW 88 Street
FOLIO NUMBER: 35-3008-000-0041, 35-3008-000-0048, and 35-3008-000-0051
SIZE OF PROPERTY: ±7.2 acres
FUTURE LAND USE CATEGORY: Community Mixed Use and Regional Activity Center
ZONING DISTRICT: Planned Unit Development (PUD)
REQUEST: The Applicant is requesting to modify the development program for Phases IV, V, and VI of the Midtown Doral Planned Unit Development; Phase IV consisting of a maximum of 146 dwelling units, Phase V with a maximum of 203 dwelling units and 11,370 square feet of gross leasable area of commercial use, and Phase VI with a maximum of 203 dwelling units and 11,370 square feet of gross leasable area of commercial use.

Location Map



ZONING WORKSHOP PROCESS: The zoning workshop consists of two sessions:

1. First Session. The first session of a zoning workshop shall provide a forum for members of the public to learn about proposed developments within the city. Developments may be presented to the public simultaneously, in several locations within the meeting site. During this session, members of the public are encouraged to ask questions and to provide feedback to the applicant about the proposed development. The applicant shall provide visual depictions, such as renderings, drawings, pictures, and the location of the proposed development. In addition, representatives of the applicant shall be available to answer questions that members of the public may have about the proposed development. The members of the City Council shall not be present during the first session of the zoning workshop.

2. Second Session. The second session of a zoning workshop shall provide a forum for the City Council to learn about the proposed developments discussed at the first session of the zoning workshop. No quorum requirement shall apply. Developments shall be presented by the applicants sequentially, one at a time, for the City Council's review and comment. The applicant shall again present visual depictions of the proposed development. In addition, the applicant shall be available to answer any questions that members of the City Council may have about the proposed development.

No quorum requirement shall apply nor will any vote on any project be taken, but roll call will be taken, as it is a publicly noticed meeting.

Information relating to this request is on file and may be examined in the City of Doral, Planning and Zoning Department located at **8401 NW 53rd Terrace, Doral, Fl. 33166.** Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide translation services during the zoning application process or during any quasi-judicial proceeding.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento o durante el proceso de solicitudes de zonificación.

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City Clerk
City of Doral

10/27 23-63/0000691206M

BANKING/ FINANCE

Payments Stocks Wipeout Hits $80 Billion on Worldline Shock

by Aisha S Gani, Jan-Henrik Förster and Alexandre Rajbhandari

ADOBE STOCK

Worldline, which can trace its roots back to the 1970s, has grown to become one of the world's largest payment players with roughly 18,000 employees.

For signs of whether central banks' efforts to contain inflation are working, look no further than the slump in payments stocks this week.

France's Worldline SA cut its outlook on Wednesday and plummeted about 60% on Wednesday, dragging Adyen NV and Nexi SpA down with it. The moves came just one day after newly listed CAB Payments Holdings Plc plunged 72% in London after reducing its revenue guidance, making it the world's worst major initial public offering this year.

Once the domain of the biggest global banks, payments companies became a darling of private equity and stock market investors over the past decade as the sector expanded into everything from providing card-readers at store checkouts to apps that allow everyday customers to split bills to the plumbing behind billions of transactions a year for global blue-chip companies.

But as central banks around the world have ratcheted up benchmark interest rates in their fight to contain inflation, the breakneck growth of the industry is coming to a halt.

"This is the first time in a long time we anticipate a slowdown in global payments," said Kunal Jhanji, who leads the payments work for Boston Consulting Group in the U.K. "In general, the macroeconomic headwinds will hit payments organizations."

The moves this week have already erased nearly $12 billion of market value for seven of the world's biggest payment players by midday Wednesday in New York. That brought the year's slump to around $80 billion at that time.

Worldline, which can trace its roots back to the 1970s, has grown to become one of the world's largest payment players with roughly 18,000 employees. More recently, investors have grown concerned that challengers such as Stripe Inc. or Adyen have begun stealing market share from the payments giant.

Then, in August, Adyen shocked markets warned investors that pricing competition, higher inflation and interest rates stunted revenue growth in the first half of the year. The move wiped more than $20 billion off the company's market value and gave investors pause about the broader payments space.

"Adyen's profit warning sparked worries that pricing could be under pressure due to competition," said David Vignon, vice president equity research at Stifel.

Worldline's latest warning added to the existing gloom around global payments firms such as Block Inc., which slumped 8% on Wednesday, and PayPal Holdings Inc., which sank to a six-year low. Investors have shaved more than $300 billion off PayPal's market capitalization in the last two years alone as they worry about the company's recovery in the aftermath of a pandemic-era boom in online spending.

"PayPal has big e-commerce exposure and that's where Worldline is focused," Dan Dolev, an analyst at Mizuho Securities, said in an interview. "Both Square and PayPal are in the penalty box. When you're in the penalty box, every piece of bad news becomes really bad."

Indeed, the biggest U.S. banks in recent weeks have said the Federal Reserve's efforts to tamp down on higher prices seem to be working based on their cardholder data. Bank of America Corp. Chief Executive Officer Brian Moynihan said the company had seen customers' spending on debit and credit cards jump 8% in the first half of the year compared to the same period a year earlier, but such growth slowed to as little as 4% for the months of September and October.

"Frankly, the Fed has won the battle of the American consumer—they are slowing down," Moynihan said in a Bloomberg Television interview earlier this month. "And the question is what happens next."

UNIQUE WOES

To be sure, Worldline faces some unique woes. In some cases, investors are assessing whether the company's warnings are idiosyncratic issues or signs of wider turbulence in the sector.

For instance, the company said it has curtailed relationships with some merchants to lower its risk of cybercrime and fraud, a move that the payments provider said will cost it as much as €130 million in revenue.

That comes after German financial watchdog Bafin imposed severe restrictions on a Worldline entity in the country for failing to take action against fraudsters who use the firm to process credit card transactions.. In an earnings presentation Wednesday, the termination of some client relationships in Germany, the firm's largest market, was described as one of the "lowlights" of the quarter.

It wasn't the first time that German regulators had shown a propensity to crack down on payments companies. Unzer, for example, was once a high-flying player in the space and when the private equity giant KKR bought it in 2019, it was touted as "one of the fastest-growing full service payment providers in Europe."

Last year, German regulators fined Unzer citing weak anti-money laundering controls that exposed the firm to abuse by organized crime. KKR ultimately had to hand over the embattled firm to creditors.

Adding to the challenge, Germany is facing a possible recession, leading Worldline executives on Wednesday to warn investors that consumers there were starting to allocate more of their spending to essentials, crimping the amount of sales it processes for retailers.

"They have specifically pointed to intensifying macro headwinds specifically in Germany," Sanjay Sakhrani, an analyst at Keefe, Bruyette & Woods, said in a note to clients. "Many times mix impacts and geo concentrations can drive outsized impacts at specific players and may not be entirely be representative of impacts at other companies."

Worldline Chief Executive Officer Gilles Grapinet said in a Wednesday interview with French daily Les Echos that he believes the stock's slump on Wednesday is "uncorrelated" to the firm's fundamentals. The firm's shares were up 3.9% at 1:51 p.m. in Paris on Thursday.

BRITISH CONTRASTS

In London, CAB's rise and fall has been particularly swift. The business-to-business payments firm was one of the few IPOs in the city this year when it joined the market in July.

Just over three months later, the firm said a number of changes to the market conditions in some of its key currency corridors, such as a mandate for West African firms to use local banks rather than intermediaries, prompted a sharp reduction in its revenue guidance for the year.

"In a nutshell, management's reputation is in tatters," Liberum analyst Nick Anderson wrote in a note to clients. "While we think the underlying business has a strong proposition with a large market, management's inability to foresee events and guide is a major concern."

The payments sector has been ripe for dealmaking over the past few years and acquisitions in the space are widely regarded as some of the biggest successes for private equity funds.

Scale is important for industry players, which typically collect a small fee from merchants every time a consumer uses a card at checkout. That's why it was so lucrative for private equity funds to buy payment platforms and grow them through debt-fueled acquisitions.

A bevy of companies are still weighing potential stake sales or further consolidation in the space.

Barclays Plc is considering the sale of a stake in its merchant-acquiring business in the U.K. as part of efforts to boost its lagging share price, while the private equity firm GTCR LLC is in the process of buying a majority stake in Worldpay, in a deal that valued the target at $18.5 billion.

Plunging share prices could lead some investors to weigh an acquisition. That said, payment firms such as Nexi are still partly owned by private equity firms including Hellman & Friedman, which probably wouldn't want to exit their investment at an even lower prices. Bloomberg has previously reported that CVC Capital Partners was considering a bid for the Italian provider.

"The business itself overall is very good," Barclays CEO C.S. Venkatakrishnan told analysts on a conference call this week. "There's a broader strategic question for us, which other banks have faced, which is it's a very technology-driven business. What is your competitive advantage in this?"

Aisha S Gani, Jan-Henrik Förster and Alexandre Rajbhandari report for Bloomberg News.

dbr DAILY BUSINESS REVIEW

CLASSIFIEDS

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Trying to Balance Privacy Compliance With User Perception

by Tyler J. Thompson

In the wake of new data privacy laws, companies face a delicate balancing act between compliance and a positive user experience.

In order to comply with rapidly changing privacy laws, fitness device company Polar locked users' access to the app this summer until consent was provided. While this strategy was designed from a purely privacy compliance standpoint, Polar's approach resulted in user surprise and backlash.

In fact, well-known podcaster and comedian Joe Rogan posted screenshots on social media of Polar's new privacy consent forms, along with complaints that it was too invasive. Rogan was just one of many users who voiced concerns, but as an influencer with nearly 18 million followers on Instagram, his impact was more dramatic than most. He told his followers he was looking for a new heart rate monitor and encouraged others to also reconsider their association with Polar.

Although the fitness device company may have been compliant from a privacy standpoint, it did not sufficiently account for the user experience and the customer reaction.

The Polar incident is one example that serves as a valuable lesson for other companies looking to balance privacy compliance and user experience. Understanding how one powerful user's negative feedback regarding consents affected an entire brand reveals best practices for all companies with privacy compliance elements integrated into their user experience.

CREATING A POSITIVE USER EXPERIENCE

As we saw with the events involving Polar, a successful privacy program goes beyond just checking boxes to comply with laws and regulations. User-friendliness and accessibility need to remain at the forefront. Here are six strategies that companies should consider implementing to achieve this balance while creating a successful privacy program:

- **Be transparent**: Before implementing processing changes, it's important to inform users about what's coming. A simple heads-up about changing practices may make a significant difference in how they are received. Consider utilizing emails and in-platform messages to socialize upcoming changes. Also, linking to a company's complete privacy policy leaves users hunting through pages of documentation trying to understand what's changed. Instead, supplement the comprehensive privacy policy with targeted privacy notices describing updated information about how data will be utilized.
- **Educate users:** When users understand the "why" behind an unexpected change, they're more likely to be accepting. That's why it's important to invest in educating users about the reason behind any changes. Increased transparency about the reasoning behind new data processing activities or consent structures (including explaining that they are required by applicable law, when relevant) is important. Similarly, relying on broad, legalese terms like "sensitive information" and "transferred and processed outside my country of origin" is not sufficient. This kind of wording is not nearly as effective as plain English descriptions that most users will understand.

ADOBE STOCK

Recent events involving fitness device company Polar and comedian Joe Rogan provide valuable lessons for companies relative to new privacy requirements.

- **Create prior testing and gradual implementation:** Rather than sudden, sweeping changes, also consider a phased approach. Testing new compliance mechanisms with select user groups or A/B testing can provide initial insights into potential problems before these mechanisms are put in place for the full user base. Give users time to adjust to the changes that are coming. Gradual implementation may require that a company implement some privacy changes sooner than technically required by applicable law to pace the rollout of all changes over a longer period.
- **Prioritize usability:** A well-designed user interface can guide users through new changes without making them feel cornered. While it may be necessary to collect multiple consents for different purposes, try to avoid presenting a litany of consents simultaneously. Each separate consent is a separate opportunity for user surprise or unhappiness.
- **Eliminate the need for additional consent efforts:** Additionally, implementing privacy-forward practices now may eliminate the need for invasive consent efforts later by reducing collection of needed personal information. Privacy leaders should challenge their companies to require less personal information. When new consents are needed, consider taking steps to provide users with limited platform functionality until such consents are obtained rather than implementing a consent wall blocking all use. Allowing some access lets the company maintain both compliance and usability while compliance is implemented.
- **Apply feedback loops:** Allow users to share feedback on these changes. This not only provides insights into potential pitfalls, but also helps users feel heard, potentially preventing them from voicing their concerns through other avenues.

THE TAKEAWAYS

Every company faces the risk of unexpected customer reaction to honest privacy compliance efforts. While not every individual has the influence of Joe Rogan, Polar's approach serves as a poignant lesson in the delicate balancing act businesses face between privacy compliance and ensuring a positive user experience.

As companies of all sizes navigate the complex world of privacy regulations, they need to consider both the user experience and core business goals. While legal compliance is paramount, the way it is approached and implemented is just as important and can spell the difference between retaining loyal customers or driving them away.

Tyler J. Thompson is a shareholder at Greenberg Traurig's Denver office and advises clients on data privacy and protection.

Change Management Strategy to Maximize Your Tech Investment

by Kieron Champion

The legal industry is undergoing a notable period of transformation, influenced by broader economic shifts, rapid advancements in technology, and ongoing scrutiny of legal spend. Despite the inevitability and scale of this change, law firms often find themselves ill prepared to effectively integrate new technology solutions and modify long-established work practices. As a result, the profession can be slow to implement the necessary changes to align with client and business goals.

The industry typically employs a rudimentary approach to change management that prioritises launch communications and technical training over genuine adoption and enablement. Consequently, many law firms' strategies fail to consider the sheer scope and scale of the change required and the impact on the work of lawyers and the firm's overall business model. The result is a diminished value of the very investments designed to deliver business benefits (and warrant the costs).

In most instances, the primary motivation behind updating a firm's technology and systems is to automate or enhance a specific business function or process. But failure to realise the promised returns of new technology investments can largely be attributed to prematurely curtailing change management efforts before the full potential is achieved. The challenge of ensuring technology is used to its full potential often stems from poor attention to long-term business objectives and an understanding of what is required for genuine transformation within a business. Typically, change is seen as a one-off effort, a 'necessary evil,' that is focused on the launch rather than as an ongoing program aimed at bringing about long-term and necessary organizational and behavioural improvements.

The limitations of current approaches to change within the legal industry underline the value of a carefully devised change management strategy that maximizes the return on investments and prevents wasteful spending on redundant or unnecessary technology. Once a firm has established a clear rationale for investing in new technology, we recommend a four-phase change management methodology: Target Setting and Planning, Enablement, Adoption, and Transformation. Each has a clear purpose and outcome, which builds on the last.

The first phase — Target Setting and Planning — is imperative. Firms that rush to implementing technology will be disappointed. To achieve desired outcomes, it is important to plan for anticipated changes, fully understand the technology's capabilities, and make clear the extent to which change is needed in current processes, work routines, and existing technologies. This process highlights how change affects groups and individuals differently and the need to tailor the approach, messaging, training, and support materials for users of the new technology.

For Enablement, the key lies in education and training — ensuring that staff understand how to use the full spectrum of features available to boost efficiency and productivity. Conventional methods prioritize functional training, typically delivered by IT training personnel or external providers who do not fully understand the firm's strategic objectives and what is driving change. Particularly effective is microlearning, a technique that offers an effective approach of concise e-learning modules that are accessible, digestible, and adaptable to specific roles (personas) and tasks.

Adoption revolves around ensuring measurable and consistent usage within the core user groups. Supporting adoption is a time-intensive effort that management needs to closely monitor. We find that change management initiatives that fall short of their goals assume new processes have been fully adopted and embedded long before they have. These programs invest substantial time and organizational resources in the initial launch and the immediate aftermath, which creates a false impression for many that their mission is accomplished. Most efforts stop well before the change becomes fully adopted and the actual value of the investment has been realized. Jumping the gun carries a significant risk of lawyers and legal professionals reverting to old practices, especially during stressful periods — sticking to "what they know" rather than making the most of fresh solutions and processes.

When technology adoption is low — due to insufficient training, a lack of understanding, or other factors — the tools and features remain underutilized and ultimately signal a failed change initiative or, at best, one that can only be deemed a partial success.

Introducing new technology and the change management initiatives required to benefit from the full business potential can be a challenge for any firm. However, it is achievable. Law firms can leverage both basic and advanced functions of new technology by executing a best in class change management strategy. By doing so, those involved can reassure leadership that investments in new technology are driving the desired results, updating their operating models, and demonstrating expected value-add.

Kieron Champion is a partner at Fireman & Co., an Epiq Co. UK, and specializes in digital and knowledge-based programs and solutions.