

Global reach

International legal alliances help companies overcome the pitfalls of cross-border litigation.

By Andi Balla



It is a scenario many Canadian in-house lawyers know well. They show up for work to find out their company has been involved in a lawsuit in California, Puerto Rico, or Virginia, and they need to find a local lawyer immediately to tend to the case. Recently, it happened to Open Joist 2000 Inc., a Trois-Rivières, Que.-based manufacturer. It had been named in a dispute in California and needed legal counsel there immediately. The company did not go looking in California, however, it called up its firm in Montreal.

In a short time frame, the Canadian company had a California law firm that “was able to jump right into it, worked with the case, got an understanding, and participated in the mediation session,” says Bruno Floriani, co-managing partner at Montreal’s Lapointe Rosenstein

Marchand Melançon LLP, who represents Open Joist 2000 in Canada. A settlement was eventually reached that was to the satisfaction of the company, he adds.

The Quebec-California case is not unique. This sort of connection happens every day among Canadian and U.S. jurisdictions. Indeed, they happen around the world. That’s because lawyers like Floriani use their firms’ membership in international legal alliances to find previously vetted law firms to refer their clients when they need help in other jurisdictions around the world.

Floriani’s firm is a member of TerraLex Inc., one of several international alliances that operate under fairly similar methods and rules. Independent law firms can join an alliance after

being vetted for quality and agreeing to the rules the alliance sets. Sometimes the agreement is exclusive, for example only one firm for each alliance can be in Ontario or British Columbia. But that is not always the case. “The main reason we exist is to help our member firms serve their clients better, so part of it is to be able to work with quality firms, where each firm is able to reach out to quality law firms in other areas,” says Carl E. Anduri, who as president of Lex Mundi, another large international alliance of independent law firms, knows that finding a reliable law firm in other jurisdictions is vital to many businesses.

And law firms take membership in the alliances very seriously, says Ken Kallish, a partner at Toronto’s Minden Gross LLP and former chairman of



Meritas Law Firms Worldwide, one of the largest groups of independent, full-service law firms. In fact it is so important, he says some incorporate it in their branding. "We have the Meritas logo on the cards," he says. "The Meritas brand is one with us."

And since most of these alliances list their members for free in their directories and web sites, an in-house counsel

can easily find firms around the world. So if an Ontario company wants to do business on the other side of the world, let's just say Albania, the Meritas web site leads to Boga & Associates, a firm that might be unknown outside of the tiny country, but it is a name most foreign companies operating in Albania would instantly recognize, according to local experts and international rating indexes.

While membership in these international groupings gives a leg-up to firms around the world, they also need to adapt to the shifting needs of their global clients, who say finding the right representation is not always easy particularly when doing business in parts of the world where companies might have no experience and no local contacts.

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That's why in a large downtown Toronto conference room, the chatter and the nodding perk up among the 50 or so in-house lawyers in attendance when a Corporate Counsel World Summit session gets into the topic of finding the right legal representation in other jurisdictions. Ildiko Mehes, general counsel at Teva Canada Ltd., recommends a direct approach. She says it's best to interview several local lawyers if the company feels it is necessary, because choosing the wrong lawyer is not an option. "My guiding principle is picking the best [local] counsel there is," says Mehes, one of the speakers in the session.

There also needs to be careful evaluation of the local firms chosen to represent a company overseas when it comes to applicable professional standards, says Frank S. Ryan, general counsel and secretary of Nexans USA Inc. "The professional standards of lawyers are not the same everywhere," says Ryan. "The idea of conflicts is not the same we would consider under our professional ethics. And sometimes a firm will have a conflict and it doesn't give the best advice, so we have to be careful with that. That's what I advise people."

For Anduri, that's one area where membership in a multinational network helps because the firms go through quality screening before admission. He says Lex Mundi puts its member firms under periodical evaluation, and membership does not come with a lifetime guarantee. "It can be revoked," he says, if the standards are not kept up to the level expected by the network. At Meritas too, firms have been terminated, says Kallish. But it is usually not about quality issues, and termination is an unusual occurrence, he adds.

As companies struggled with the economic crisis, firms both in Canada and the United States have come under tremendous pressure to provide more value in their billing, and that has led to some evolution at the legal alliances too. "The clients' desire for more value in the amount they are paying for legal services . . . to have alternative-fee arrangement, discount arrangements [has led to] intense pressure on law

firms," says Anduri. One result of such pressure that is increasingly appearing in the U.S. market, but likely to make its way up to Canada as well, is the idea of pulling resources to provide services by several network firms in different parts of the country, says Charles E. McCallum, chairman of TerraLex. "We have seen . . . a group of members approaching in-house counsel and saying, 'Look we would like you to consider a consortium — we'll manage it — of TerraLex firms to handle a business that you might normally have given to a global firm, because we can deliver, we believe, as good or better quality at less cost,'" says McCallum.

He adds mid-size firms are telling in-house counsel in the United States

al alliances of law firms, according to Jacqui Hurd, head of marketing operations and global client development at LexisNexis, who recently presented the study at a Legal Marketing Association event in Toronto. Speaking at the same event, Bill VanderBurgh, a partner at Aird & Berlis LLP and a former vice chairman at Interlaw Ltd., said referrals from other law firms make up a good portion of business for a lot of firms. "We keep track of the referrals," he said of his Toronto-based firm. "I look at monthly statistics. Our experience has been that it is very important to keep in contact with Interlaw." But the relationship also needs to be a two-way street. "If someone tells you they don't expect anything in return, either they

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KEN KALLISH, Minden Gross LLP

that "you don't need to be limited to going to a financial capital to get your lawyers; you can use a strong regional firm and get broad coverage, you can use alliances of firms."

The relationship with the alliances is important to many law firms because they get a considerable chunk of their income through referrals from other member law firms. A quarter of law firms recently surveyed in a global study said they derive more than 20 per cent of their annual revenues via referrals from other law firms. The study, commissioned by LexisNexis Martindale-Hubbell, polled 734 legal professionals from mid- and large-sized law firms in western and eastern Europe, Asia, Latin America, and the U.S.

Companies doing business across jurisdictional borders increasingly rely on lawyer-to-lawyer referrals. But 27 per cent of firms surveyed said their firm doesn't track referrals, according to the study. And one of the most important vehicles for referrals is internation-

are lying to you or they have missed the boat," says Allan Bronstein, a partner at Torkin Manes LLP, which belongs to the International Alliance of Law Firms.

While Canadian firms were not included in the survey, the results are relevant since many Canadian firms are part of international referral associations. "From a number of roundtable meetings that we have held with law firms . . . the research does resonate with law firms throughout the world," says Bryn Hughes, a marketing and communications manager at LexisNexis. The good news for international alliances is that there doesn't seem to be any decrease in the pace of globalization. "In terms of the client becoming more global, needing international resources, that continues to be the case," says Anduri. "Law firms are faced with the need to provide help to clients outside their home jurisdiction — which is something that is of benefit to us." ■