

## 2020.08.26\_Gary and Joe\_CiP\_mixdown.mp3

**Matt Merin** [00:00:05] Welcome to Case in Point. Produced by the University of Pennsylvania Carey Law School. I'm your humble host, Matt Merin from the Communications Department. And with help from the law school's Development and Alumni Relations Communications Director Larry Teitelbaum. Gary Sangha from the JD class of 2003, is the founder and CEO of LexCheck. And Joe Borstein from the JD class of 2005 is an award winning alternative legal services industry leader. They join us on Case in Point to discuss the importance of adopting technology in the legal industry. All right. So Gary and Joe, thank you for joining us today. Why has the legal profession been so slow in some quarters to adopt technology?

**Gary Sangha** [00:00:50] This is Gary Sangha, thanks so much for having me. The reason why legal has been so slow is there is a myriad of reasons. So primarily legal's been on the trailing edge of the technology adoption curve, because people feel that they are not incentivized to adopt technology at best. At worst, people are fearful that technology will actually take away work. So that's what is kind of boils down to in a nutshell.

[00:01:25] And then if you go into specific subsectors of legal and there's other issues. Right. So if you're in a law firm environment, especially the Am Law 200. You know, technology is capital investment. Right. And a lot of these folks, you know, they get their income at the end of the year and they may or may not be lifers at that law firm. Right. So what incentives do they have to make capital investments for their pay dividends for future years out? Right. Or what incentives do they have for investments to train up fellow attorneys or our productivity? That may not impact their specific bottom line because they have a book of business, for example. Right.

[00:02:13] You also have a sense, in my view, just the fear of technology, and this goes in two ways.

[00:02:22] One is a straight up fear. Hey this is going to automate my work because my work is that straight forward or that

[00:02:29] well, the corolary is my work is so bespoke and so high end that no way a machine could touch it.

[00:02:36] And I'm going to give it a chance. Right. And they're both clearly off. Right.

[00:02:42] But they both kind of result in the I know what you call it, just like my you know, my toddler does this, the hands in air and yelling scenario. Right. The ostrich. The ground scenario.

[00:02:57] But that's just, you know, broadly my view. Joe, what are your thoughts?

**Joe Borstein** [00:03:02] I think you nailed it. I would add a couple of things, which I actually think you touched on, I'm just going to put it a different way. Number one is, I think, a culture of precedent. So remember, we are taught as lawyers that, you know, if we started decesses in general, you're supposed to do what was done before. And remember that there are carrots and sticks in the legal industry. You can be sanctioned for doing thing wrong. So I think some of the fear of doing things new is somewhat unique to the legal industry in that the way we were taught. And also in the way we are regulated in that if we make critical mistakes, you know, it's not just a mistake for the client where you owe

them some money back. You can actually be disciplined by the broader bar association. So that there's an inherent fear and a culture of sticking to the script. I think what Gary said was really right about retained earnings. It costs money to make capital improvements. And remember, also, under our regulatory regime, lawyers cannot share ownership with non lawyers. So you can't issue publicly traded stocks and bonds and do the things that other businesses do to upgrade their technology infrastructure. Finally, I'd say that the one thing I've really struggled with in convincing lawyers to try new things, new technologies, new processes is a concept that I think is very familiar in other industries, but not familiar in law. That is that it is conceivable that if you lower costs and provide better services, you might actually get more business, not less. That is something that I can barely convince anyone of, even when we come to Penn Law, it comes up over and over. This idea of replacements. Will technology replace what lawyers are doing? It's my thesis. And, you know, only time will bear this out that the market as a whole will be far bigger once we streamline costs. And that's because I think there's untapped demand for legal services. People actually want to consume more of it and spend more of their yearly budget on legal, but to dip your toes in and to just start getting legal advice is so expensive that people simply don't do it at all. You know, flying is a great example. As the costs of air travel came down, the industry of airlines went through the roof. There were just more flights. There ended up actually being more pilots after autopilot was invented because instead of three you only needed two pilots. But there were so many more flights in the air that there was actually more demand for pilots. My guess is that that would be true in law as well. But very few people believe that and think that by bringing on things that show my work, you're simply going to have less work.

**Gary Sangha** [00:05:55] I hundred and ten percent agree with Joe, there's clearly an excess demand for legal services that isn't being met. Right. And you can just see it as a proxy for you know, you can see the way corporations consume legal services or you can see even see how how high income Americans consume legal services. Right.

[00:06:17] And clearly, middle income Americans, the lower income Americans don't consume legal services at the same rate, which just doesn't make sense because, you know, things happen to everybody in life. Right. Typically, legal services should track GDP growth. Right. And GDP's also grown. So there's clearly untapped demand for legal services, the tech could help bridge. What's paradoxical about legal services is it also makes us supply legal. Right. There's a bunch of lawyers who don't bill enough. Right. And that's due to another set of reasons. Right. Just the cost structures and whatnot. But clearly legal is a weird sector, right, where you have an excess demand and excess supply problem. Right. The demand supply roads don't meet. That's bad. And that's a problem. Right. There's something wrong there and technologies is a straight up simple way to solve.

[00:07:12] Yeah.

**Joe Borstein** [00:07:13] If we can even stay with this for one more minute, I think that the last aspect is a sort of pride and prestige angle, which is I think most lawyers, including at Penn Law, think that if you're doing work in the legal industry, that is not the practice of law. It is somehow kind of less prestigious. And I guess that's something that I've been trying to fight back on with my articles in Above the Law for years. But if you think about what Gary did or what the founders of my company, Pangea3, did who were also both Penn Law grads, they both helped create industries, one being in legal tech and one being in legal services that have driven the costs of legal services down all over the world. So, you know, you can think a little bit more broadly about what it means to be a lawyer and to solve legal problems at scale. It's certainly not just the practice of law. You know, it's also

legislation. It's also creating technology. It should also be creating new service models, anything where you're able to broadly and at scale, help the legal industry should be a source of pride and income and prestige and all of those kind of good things that people want with a degree.

**Matt Merin** [00:08:26] And I think you touched on this a little bit. Let's expand. Why is it important to embrace the technology and how will the lawyers of tomorrow and their employers benefit from the use of these new tools?

**Gary Sangha** [00:08:38] As a baseline you have to remember you're never worse off, right? By embracing productivity tools. Right. As long as the price is right. So, you know, I think sometimes lawyers feel that, you know, Ok, you start to take away parts of my work. And then you know, how I'm going to bill? I rarely meet lawyers. Where I specialize is corporate legal. Right. Transactional work that I've had too much time to perform a task. Right. Even when, you know, you have tools that can add productivity, that can automate certain tasks. There's so much other stuff that needs to be done, even if, you know, you're doing your work as is. There's stuff that could've been done better, the stuff that, you know, you couldn't focus on because you have the baseline road stuff first. Right. So you really, again, assuming the price is right. Obviously, you're not going to pay, you know, a million dollars for, you know, a new pencil, assuming the price is right and the ROI us there, you're never worse off. Right.

[00:09:42] Because you can do other things with that time.

**Joe Borstein** [00:09:45] Yeah, I think sometimes it helps. Completely agree, Gary. And it also helps to sometimes dig into really niche examples to see how everyone can benefit in some way. Imagine a situation where, you know, a small drug company, we'll call it Drug Co., believes that a patent was infringed upon by the, Big Drug Co.. They believe that they have a valid lawsuit. And they believe they could recover 10 million dollars if the costs of prosecuting that claim are, you know, between five and 10 million dollars. And the odds are 50 50. It's a negative expected outcome. And the case will never be brought. If by using technology and globalized services, predictive coding, predictive analytics. You can drive the costs of that down from five to 10 million. So let's say one or two million, then you have a positive expected outcome. Now, look what happens in the legal industry. One, a valid claim was able to be brought, right. So that's good for justice. Good for business, good for everyone. To the plaintiff's firm now has a case which they didn't have because it was not economically viable. Three, the defense firm has a case. You've created by bringing down the costs on this prosecution, you've created a valid claim. You've allowed created work on both sides. And you've been grown the pie. Again, like that type of example, I don't think you'd even need to make the most of their industries because the common sense that, you know, computers as they came down from ten thousand dollars down to, you know, whatever they are now, a couple hundred dollars obviously is going to grow the market. It is more intuitive. It's less intuitive in law. But it is true, or at least I believe it's true. So I think all of these technologies, besides making your work better, cheaper, faster, should in the aggregate, grow the pie. Right.

**Gary Sangha** [00:11:40] And also, just imagine going backwards in time. You know, 10, 20 years when, you know, you didn't have e-discovery discovery tools, you didn't have diligence automation tools. Right.

[00:11:51] You ever imagine going back to a time where you'd have to review all this paperwork manually again? It would be a disaster.

**Joe Borstein** [00:11:57] You just couldn't do it. The number of cases would drop dramatically because, you know, for that break-even economic scenario, the expected outcome would have to be so gigantic, we just wouldn't bring cases. And what that means is also that the you know, the bigger players can really bully the smaller players, smaller companies like, you know, the small pharma company we just talked about and take from them. And really, it hurts the system of justice, all in all. That's one of the reasons I brought up this idea of prestige. Like, I want people to build these technologies and build these new service models to be looked at, looked upon as in part, heroes of justice, just like lawyers. That's not to take away from the practicing lawyer, they both should. They're both allowing the system to function better. Oh, I just think the focus right now is on technology, because is a new player in the space and legal as opposed to the practice of law, which certainly has been a noble profession forever and continues to be when done right.

**Matt Merin** [00:13:02] For sure.

[00:13:02] And is the fear that automation will displace some lawyers warranted?

**Gary Sangha** [00:13:07] In the sense that automation lawyers as a profession, no. I don't believe that. In terms of automating certain tasks. Clearly. Remember lawyers aren't just robots. Right? They're not just ATMs. I just punch out specific tasks. Right. There's so much more right. There's a human component involved in legal services. Right. It's not going to automate lawyers, but there are definitely tasks. Especially low marginal value tasks that tech could probably do better.

**Joe Borstein** [00:13:43] I don't like the word replace. I think it's going to change what they do. So document review is a great example. You know, in my in my last year practicing, I was working on a case with about 10 million documents over about one hundred third party subpoenas. I spent all my time managing teams doing triage. Now, a lot of that could be done with technology and globalized services. Right. Predictive coding could sort and filter better. But all that technology would have likely filtered it down from 10 million until it's a half a million. So just sit with that number for a second. Half a million documents, not pages. There is still a virtually infinite amount of work, and that work is still document review. It's just that now I'm looking at things that have a high likelihood of being relevant to my case. So would it have shifted? Let's say we went back in time and brought predictive coding. I think we would have needed just as big a team. I think we would have billed just as many hours, though we would have done is far more productive and far more effective in getting to the truth, but would it have shifted what I did? Absolutely. And it will continue to move people up the value chain. So in the example we gave before about the small company suing the big company, as there are more lawsuits on smaller scale and things like that, and probably more deals also because deals have the same threshold, they cost money and they need to be of a certain size to be worth it. You will probably have more kind of high value work and more of the low value work being taken up by automation and globalization. So, yes, I think shift absolutely. Will it net take away work? I actually don't think so. And what we've seen in the last 10 years is as automation has grown and globalization have grown, law firms have grown about a little bit faster than inflation. Not much. Not like the years before the Great Recession. But you have seen growth. And what that tells me is that, you know, the globalized services, which probably has 10000 people offshore, work around U.S. legal work.

[00:15:55] That means there actually is more work because those people are busy. And the U.S. attorneys have been busy.

**Matt Merin** [00:16:03] And what role will technology play in closing the justice gap?

**Gary Sangha** [00:16:12] I think that's a huge, huge issue.

[00:16:17] I think tech has a massive role to play because the demand and supply gap is most acute there. Right.

[00:16:27] Most lawyers with their law school debts and and whatnot just couldn't service people. Right. And those people in turn just can't pay the fees. Right. And it's, you know, it's borderline tragic. Ppeople can't get access to justice just because of the economics are broken, but there's several ways to solve the problem, right? One is obviously just the guilds and the bar associations restricted supply of lawyers. But from a technology standpoint, there's so much that can be done. Right. You know, I read about these just tragedies where people can't get their pleas right and whatnot. It results in people not getting bail and all sorts of terrible circumstances just because they just don't even know how to do the process.

[00:17:14] At this point you could probably have machines that you can use, almost like an ATM where you can enter in results and answers and get things done.

[00:17:25] Huge role to play. They're all solvable technology problems, right? There's nothing cutting edge even needed to make a big impact. The problem is, how do you get people incentivized to do something?

[00:17:39] Right. So for guys like Joe or myself, I mean, we can do something.

[00:17:43] But as technology vendors/developers the economics aren't necessarily there, right.

**Joe Borstein** [00:17:50] Yeah, I completely agree. I think a lot of the the access to justice issues come from, you know, an extremely complicated court system in which very few people have personal incentives.

[00:18:05] There is not a free market like there is in the private sector. So imagine how slow things move in the private sector. And there is personal economic advantages to change that, some of which we walked through. Very few people stand to gain through technological advancement in the government sector, in the court sector. So I think the potential for good is absolutely tremendous. I mean, just so many of the things that make law difficult are just the process. And, you know, the physical locations and filling out forms right. Almost all which can be handled with technology, but it is a bit of a mystery how how we jumpstart that.

[00:18:52] You know, I think it just has to be a much bigger priority for the government than it is now. I will say on the private side, like in the pro bono world, you do have fantastic companies like Paladin who are trying to make distribution of pro bono services better and more effective. And they're doing a great job at it. So I have a little bit more hope there.

**Matt Merin** [00:19:14] If you could as kind of a closing summation, can you give a minute elevator pitch for better proliferation of technology in the legal industry? Like maybe a minute each.

**Gary Sangha** [00:19:28] What's happened since the Great Recession is clients have now wised up to

[00:19:39] legal services and legal fees and what's being billed for a while. Right. So when Legal Services was just a black box and you can give a client a bell and there you go is gone. Right. So the fact that these tools are out and the genie is out. Right. So you frankly don't have a choice. Right. But eventually the client is going to figure out that there's productivity tools out there and your competitors are going to figure that out. And it's in your incentive to be seen as cutting edge. You don't want to have to be the one that is the least tech forward. Right. It's not going to suit your interests.

**Joe Borstein** [00:20:16] Look, I mean, I think if you're going to sum up in a minute. I would want to speak to the people coming out of law school and the recent graduates. I would tell them to use their instincts that they had even before law school. And those instincts typically are that if you can do work better, cheaper and faster, you're going to have a fabulous career. Don't be afraid of progress. Embrace it. Right. Look at the tools around you and think about whether you can outsource, automate or delegate the expensive routine and frankly, you know, the least fun aspects of the work and hand your client a product that is better, cheaper and faster and believe in your heart, because it's true that in the long run, if you do that and you continue to embrace change, you're going to have a long and extremely lucrative career because you are going to be the one with the best tools, the best technology and the best.

[00:21:11] At the end of the day, legal output. And I think, you know, I hope we can persuade the lawyers that have been at it for forever. But I know we can persuade the people that are just getting into the market. Just do the best work you can. And it will workout and that involves technology.

**Matt Merin** [00:21:28] Great. Well, thank you very much, gentlemen. That was a very insightful interview.

[00:21:34] Thank you. And be safe out there.

**Joe Borstein** [00:21:37] Thank you. There's a lot of fun. Thanks for having us.