

What Should Law Firms Do To Improve Profitability and Legal Project Management?

Pre-Publication Excerpt from:

Client Value and Law Firm Profitability

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LegalBizDev

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This excerpt was adapted from Jim Hassett's soon to be published research report on Client Value and Law Firm Profitability. In the Foreword, Altman Weil Principal Tom Clay writes "Although Jim's interviews were with 50 large law firm leaders, his commentary and takeaways should be taken to heart by every law firm, whatever its size... I recommend that all of Altman Weil's clients obtain a copy and use it in their strategic planning initiatives."

The book will be published in October 2014. The order form which appears at the end of this excerpt includes a 25% pre-publication discount.

This research was designed to help lawyers make the best possible decisions about how to adapt to a rapidly changing marketplace by providing insights into the actions and opinions of their peers. In the months preceding this book's publication, a number of conferences have been held by law schools to discuss the challenges facing the legal profession. Countless articles and several books addressing these changes have also been written by law school and business school professors. And consultants have written far more – probably millions of words on how client demands are changing and what law firms should do about it.

The only thing that's been missing from the conversation is public statements by the people who run large law firms. These senior decision makers rarely publish anything on their tactics and strategies, or even attend conferences. They are the ones who deal with these issues every day, and whose very livelihood depends on coming up with the right answers. What do they think?

To answer this question, I interviewed chairs, managing partners, executive committee members, CEOs, CFOs and other senior executives at 50 AmLaw 200 firms between June 2013 and January 2014.

Based on those confidential interviews, there can be no question that clients are demanding more value than ever before. There is, however, much less agreement about the best way to remain competitive in an increasingly challenging environment. This excerpt from Chapter 7 – "What

Should Law Firms Do” – lists key recommendations in two critical areas: profitability and legal project management (LPM).

Profitability

There are many signs that as times get tighter, firms are paying more attention to profitability and to its role in compensation:

I think you're going to see the pressure in law firms increase about how the pie is split. When things were going well, it was easier to take care of the worker bee partners, who are great lawyers. It's going to be tougher now, because everybody's strategy is through lateral hiring, and you don't want the great brief writer. What you want is the person who has five to eight million dollars following him or her, or the group that's going to bring 20 to 30 million dollars. – *Senior executive*

As the pressure goes up, the emphasis on total revenue is being replaced by an emphasis on profitable revenue:

Historically, virtually all law firms overweighted revenue. Often two partners who produce five million dollars each are treated equally for compensation, even if one of those partners used six and a half million dollars of resources to produce that revenue, and the other used three and a half million. – *Senior executive*

We merged a few years ago with a firm that principally focused on total dollars in the door and allowed billing attorneys to set their own rate exceptions without much oversight. We focused on those decision points that reduced realization, and the lack of profitability in a million dollars received that takes two million dollars of effort to generate. Consistently reinforcing these basic concepts through our BI tools and in the compensation system has resulted in significant margin improvement. – *Senior executive*

There are still far too many lawyers who respond to cost pressure by offering discounts, without understanding the implications:

Most of our partners have been doing things in a particular way for a long time. And the carpet is moving under them, because the market is changing. A lot of times, their reaction to competitive pressure is to just cut rates but not examine the way they deliver the service—not change the way they practice to be able to offer more value for the same price, or reduce the cost to deliver the same value at a lower price. Demand is down. Price pressure is up. So some lawyers will just say, “I don't want to talk about value based billing arrangement. I'll just give clients a big discount. They'll be happy, I'll be happy....” It's really remarkable how few attorneys appreciate the economics of discounting. They just don't get the math. They never had to before. – *Senior partner*

It is easy to make clients happy by just cutting the cost. Not enough lawyers have really embraced building a better mousetrap that makes clients happy while at the same time maintaining profitability. – *Senior executive*

Lawyers are proposing a 10% discounted deal or a 20% discounted deal, or a blended rate deal, but then they're going to literally do everything the same way they've always done it. They don't think about it in terms of profitability yet. So we've got a lot of catching up to do. However, at one recent conference I attended, it sounded like there are still a lot of firms that aren't much ahead of us. – *Senior executive*

Many firms are working to fill this gap and develop new tools and approaches:

I've been with the firm a little over a year, and part of the reason that the firm brought me in was that we needed to look at our operational infrastructure and basically get caught up with the rest of the AmLaw 100. We didn't have the ability to really measure profitability. We could just barely measure it at the firm level and at the office level, but not at the practice level, not at the client level, or matter level. About three months ago we finally started using a business intelligence platform that allows us to measure those things, and we're still trying to make that part of the culture. – *Senior executive*

Life used to be so much easier. The world has changed, and I think in the new environment, to preserve and enhance existing client relationships and to get our nose in the door for new client relationships, we've had to be more flexible on pricing, particularly in the alternative fee context. I think we're in a brave new world here, where we have to learn a lot of new sciences and employ a lot of new techniques. – *Senior partner*

Some firms are providing lawyers with very detailed reports, like these:

We developed a real-time report on our intranet that is role-based. For example, if you are a client attorney, then your report will show all the clients on which you have any client credit on any matter, and it will show you the components of profitability. The report shows you collected revenue, the costs associated with that revenue, the profit, and the profit margin. Then it shows you the number of hours that are in it, the revenue per hour, the cost per hour. Then it breaks down timing differences on billing and collecting time. And then it shows you the traditional measures of profitability such as realization rates at the various levels. You can click on a client and it drills down to the matter level, so you see it for every matter. And then you can click on every matter and it drops down to all the timekeepers, and you see it across the board for all timekeepers on each matter, all those same metrics. We built the database to go back 10 years. You can do it for time periods of year to date, rolling 12 months, from inception, or for any other time period. – *Senior partner*

Other firms are concerned that too much data can be counterproductive:

One of the traps you can fall into is giving people a lot of data but not giving them information. Simply revealing realization or matter profitability, just putting it out there, would not really advance the management goals of getting people to focus more on profitability. What you would engender is more questions about “How come she got paid more than I did?” That kind of stuff. – *Chair*

Merely sending canned reports to partners will not result in many partners changing the way they manage their practices to improve profitability. We need to better develop a process whereby partners with profitability challenges receive the help they need to improve profitability in a manner tailored to the issues presented by that partner’s specific practice. Otherwise they look at the report and say, “This is crap. It’s wrong.” – *Senior executive*

The key to success is to come up with information and systems that increase the behaviors that are of greatest benefit to the firm. But it isn’t easy:

When you start digging into profitability at the matter level, you get set back. You can make the numbers say whatever you want, but did you consider headcount or overhead? Some of the offices might not be as busy so you want to spread the work to them. We’re willing to take a little hit. There’s a big picture we’re trying to achieve, and when we’ve tried to get into the weeds a little bit too much, it can backfire because we get bogged down with some of this stuff. So my idea is to take the long view. It’s very difficult to understand profitability at the matter level, and in some ways that’s a misguided approach because there are just so many factors to take into account. If you can slowly start to chip away at all these areas, then that will have a beneficial improvement upon your profitability. It’s all about improving your portfolio. – *Senior executive*

The real challenge is to use our profitability tool in a way that motivates all of the partners to their maximum effort toward profitability, without creating the wrong sorts of behaviors, like hoarding work or fighting unduly over origination credits. – *Chair*

Many firms are getting serious about training their lawyers to think differently about revenue, discounts, and profitability:

Our firm has really invested a lot of effort in arming ourselves with the tools to try and deal with understanding profitability. – *Chair*

Our CFO visits offices and trains people on profitability. – *Managing partner*

We fully intend to educate our attorney base to be more aware of these things. In particular, when attorneys approach our AFA subcommittee with a project that involves an AFA, part of the response is to address the profitability of that proposal and to explain to them when the particular pricing doesn’t make sense for us to take it on. – *Senior partner*

Left to their own devices, most lawyers are probably at a 5, on a 1 to 10 scale of understanding. But we educate them up to a 9. So it's something in the middle. We have a very keenly-focused financial accounting regimen at the firm that is constantly preaching this, that all work and all books of business and all new clients are not the same. And consequently, our lawyers have a better than average instinct on this. At the end of the day, our pricing reflects this because we don't give our lawyers total carte blanche to open up a new client at a new rate. We encourage them to bring in the clients, but then we work with them very closely as to whether that client at that rate makes sense. And sometimes it's very timekeeper-dependent, what kind of leverage we're going to have on the assignment. – *Chair*

In summary, while there is still much uncertainty about the most effective tactics, there can be no doubt that firms are increasingly focusing on questions such as:

- How should our firm define profitability?
- How should we communicate this definition to our lawyers?
- How should we train lawyers to manage legal matters more profitably?
- How should we compensate lawyers for bringing in and managing more profitable work?

Of these, the last question is by far the hardest. It is simply not possible to create a compensation system that makes everyone happy. The trick is to figure out which lawyers are most essential to the continued health of your firm, and how much do you need to pay them to keep them from leaving. Basically, my advice is to ask around and find the best compensation consultant you can. You're going to need help.¹

Last year, an AmLaw 100 firm that was just beginning to think seriously about those questions invited me to speak at a practice group leader meeting about pricing trends. When one participant asked what I thought was the most critical issue, I said it was determining the difference between low prices that are acceptable and prices that are simply too low to make business sense for that firm. "Where do you draw that line in the sand?" I asked. The chairman replied, "We don't even know where the sand is."

But that was then. Now that same firm has a number of new pricing and management initiatives in place and a new pricing director. Clearly, firms are making progress. It is just very, very hard.

[As law firms struggle with internal pressure to maintain and improve profitability and external pressure to satisfy client demand for greater value, one tactic has risen to the top of most law firm lists: legal project management.]

Legal project management

¹ This is not an advertisement. LegalBizDev does not provide compensation consulting. It's too hard.

As explained in Chapter 4, the field of LPM is so new that experts have spent quite a bit of time arguing about what it does and does not include.² If you accept the very broad definition that we have been using for the last several years—LPM adapts proven management techniques to the legal profession to help lawyers achieve their business goals, including increasing client value and protecting profitability—it is easy to see that the vast majority of law firms could benefit from implementing LPM in some form.

Which brings us back to the question of exactly how to do that. Educating is relatively easy, but changing behavior is very hard. It is also the central problem in legal project management. The Association of Corporate Counsel and the ABA conducted a meeting a few years ago, “at which leaders of corporate and law firm litigation departments rolled up their sleeves and tackled the complex issues surrounding present day concepts of value in litigation.” In an *ACC Docket* article summarizing the event, the authors noted that progress will not be based on improved understanding or increased knowledge. Instead, “The challenge is change/behavior management.”³ It’s not a question of knowing what to do, it’s a question of getting lawyers to do it.

In this research, the managing partner of one firm that invested heavily in education but failed to see much behavior change had this to say:

Project management will probably have the longest-term positive impact, but it’s been the biggest challenge, because it’s something that hasn’t been easily absorbed by a lot of the lawyers. When busy lawyers start scrambling around, the inefficiency creeps right up. At our firm, project management has not met expectations. But it’s improving, and I do think long term it will have a really big impact.

If there is one thing that participants in this survey agreed on, it is that it is difficult to get lawyers to use LPM, as seen in these comments from five more firms:

Project management is not natural to lawyers. We’ve always been trained to get the case done well to win, but now we also have to get the case done efficiently, and that is not part of the natural toolkit for most people. – *Managing partner*

Getting people to manage engagements is very difficult in this business. So we’re at the discussion rather than the implementation stage. – *Chair*

We’ve done a better job on the front end, on the developing and pricing piece. Where I don’t think we’re doing as much as we could is on the legal project management end, thinking about whether there are more efficient ways to actually complete certain kinds of work. – *Senior executive*

² For example, see the June 29, 2011 post in my blog at http://adverselling.typepad.com/how_law_firms_sell/2011/06/how-to-define-legal-project-management.html

³ Susan Hackett, Barb Dawson, and Laura Ariane Miller, “Valuing Litigation: Lessons Learned from Collaboration,” *ACC Docket* (May 2011), 130.

We have clients, especially in litigation and corporate, who are saying we need to implement LPM. But it's hard to get our lawyers off the dime. – *Senior partner*

I think that it will require a lot of work, and daily support from the top, not just lip service from the partner team twice a year. – *Senior executive*

Given that the formal field of LPM is so young, and that many lawyers resist its fundamental ideas, it is not surprising that there are still disagreements about what approach to implementation works best. Several major vendors—including my company—offer different solutions. Each believes strongly in its own approach and frankly has a vested interest in proving its effectiveness.

Generally, implementation approaches fall into three broad categories: training, coaching, and law firm staff. Of course, these are not mutually exclusive and many firms use all three, along with software, as described in the next section. All of these approaches can have positive effects. The hard question that every firm faces is one of cost-effectiveness: which approach will produce the greatest impact today for the lowest cost.

Historically, most firms have started with some type of training. Lawyers love precedent, so when Dechert announced in 2010 that it had trained its partners in LPM, a number of firms jumped in to do the same thing. This led to some great press releases about how these training programs proved that firms were committed to LPM, but precious little in the way of results. Consider these comments from three firms that invested in extensive LPM training programs:

Every shareholder and top level associate has had a full day of project management training. I'd like to tell you that they use it, but they don't. – *Chair*

Training raised awareness, but I think it will take a longer campaign to significantly move the needle in terms of our ability to change the way we do business. – *Managing partner*

I don't want to say it's stillborn, because that's too fatalistic, but it has not taken hold like I had hoped it would. I think that there are some attorneys who probably are using it in their own way, but as an institutional concept it has really been put on a back burner. – *Senior executive*

It took a few years for it to become clear that training every lawyer in the firm was not a cost effective way to go, and that led people to less ambitious programs such as short sessions of “awareness training” that set stage and identified the lawyers who need to dig in more deeply.⁴

In our experience, the most effective way for firms to build LPM momentum is not with large group training, but rather with one-to-one coaching for influential partners to enable them to

⁴ A few firms have not gotten the message and are still trying this approach, especially outside the US.

directly experience the benefits of LPM.⁵ As a result, they will become internal champions who will lead efforts to adapt LPM to the particular needs of their firms, practice groups, and clients.⁶ Alternative approaches can be found in a growing number of books and articles.⁷

Given all the options and competing claims, what should a firm do to get started? Our answer is explained below at the end of this book: embrace experimentation and, as one of our clients put it, “just do something.” Start small, and find out what works for your firm.

Once you have grassroots support from influential internal champions, then you will be in a position to decide whether you might benefit from professional project management staff, depending on the unique needs of your practice area and your clients.

Remember that in this study’s ranking of LPM issues above, the two most critical were defining scope and communicating with clients. Neither can be delegated to project managers. Lawyers must first be committed to changing their approach before it makes sense to hire others to help them.

The big picture recommendations in the next section about starting “one practice group or lawyer at a time” include evidence that the development of internal champions and quick wins has proven its value in changing behavior in a wide variety of professions. So it is not surprising that a number of participants in this research cited the same approach:

I try to find an internal champion to move things forward. I worked with a partner in one department that bought into LPM and we gave a joint presentation on it. Word got out and another department asked to provide the same presentation to them. Many times once attorneys get a taste of LPM they get interested and want more. – *Senior executive*

We’ll have to have to have some guinea pig partners who are willing to try it and then be willing to testify as to how it has helped their numbers and their client relationships. – *Senior partner*

⁵ For an example of a questionnaire Hanson Bridgett—one of our clients—developed to select which lawyers to coach, see my July 30, 2014 blog post at www.jimhassett.com: “Five questions to ask lawyers before they begin LPM coaching.”

⁶ Several examples of this approach are described in Chapter 5 of my 2013 book *Legal Project Management, Pricing, and Alternative Fee Arrangements*, “Case studies in behavior change.” More recent case studies appear regularly in my blog (at www.jimhassett.com) and on our web page at www.legalbizdev.com/projectmanagement. Our coaching system is designed to save lawyers time by using the tools and templates in my *Legal Project Management Quick Reference Guide*. In addition, for lawyers and staff who want to take a leadership role on these important issues, help change policy inside their firms, define new processes, and train others, our firm created the first Certified Legal Project Manager® program. This is a more demanding program, built around required texts and real-world scenarios

⁷ See, for example, Barbara Boake and Rick Kathuria’s *Project Management for Lawyers* (London: Ark Group, 2011) or *The Power of Legal Management* by Susan Lambreth and David Rueff (USA: American Bar Association, 2014).

Because we've had some demonstrable LPM successes, enthusiasm for it is growing.
– *Senior executive*

However, even with the support of champions, LPM is not quick or easy to implement. As one senior partner emphasized, there are no magic solutions:

Top management has to make it a priority and communicate it all the time, make it part of the culture. It will have to be ingrained in people, and it's slow. When people use the tools and the resources, and they are successful, they will communicate their success to their partners. Others will want to use it, and LPM will work its way around. But that will take some time. We don't know exactly how long it will take.

Some firms will find it valuable to hire professional project managers to support lawyers' efforts, as in this quote from one chair:

We're going to start hiring different people to manage the non-legal aspects of the practice, not the relationships. That's what has to be done. Lawyers are notoriously bad managers. You could be a fabulous trial lawyer but not be able to get your hours in on time or bill on time. You might not be able to collect on the bill. With all these different components, it's better to look to a project manager on accounts receivable, on AFAs, on collections, rather than the lawyer.

Another firm chair that has gone down this path has been very satisfied with the results:

I think that project management skills are absolutely critical to achieving value and managing well, which is why we have people who actually make this their life's calling. People who are certified project managers, who are trained in it, who actually know what it means when you talk about Agile Scrum, as opposed to somebody thinking it's a flexible rugby player. Project management is a profession, and the people in the profession need to understand how the legal business works, how lawyers think. How you would manage a project at IBM is not the same way you would manage a project in a large law firm. But when we have good project managers working as part of the client service delivery team with the clients, clients love it. They just love it. It adds so much value, it's unbelievable.⁸

There can be little doubt that the trend of using LPM professionals will continue to grow, especially in large firms. It is also safe to predict that the level of LPM sophistication needed to compete effectively will continue to increase.

In the next few years, the most interesting developments in LPM are likely to involve moving away from traditional project management models to cutting edge alternatives. For example, in one of the most widely quoted texts on LPM, Robert Wysocki talks at length about how

⁸ Agile Scrum is an approach to project management that starts from the assumption that customers often change their minds about what they want and need as a project proceeds. It therefore replaces extended upfront planning with rapid development of partial solutions which can be tried out on clients and adapted until they meet true needs. Many professionals believe that this will become an increasingly common approach to LPM as it evolves.

traditional project management solutions apply only when the client’s goal is clear and the steps required for a solution are clear.⁹ In many legal matters, neither precise client goals nor complete solutions are known at the start. These complex and ambiguous situations will therefore require the more modern LPM approaches explained in Wysocki’s text, notably Agile project management that is derived from the “Agile Manifesto” signed in 2001 by 17 influential software developers and says in part:

We are uncovering better ways of developing [products] by doing it and helping others do it. Through this work we have come to value:

- Individuals and interactions over processes and tools
- Working software over comprehensive documentation
- Customer collaboration over contract negotiations
- Responding to change over following a plan

That is, while there is value in the items on the right, we value the items on the left more.¹⁰

Agile project management is an iterative trial and error process that focuses on continuous improvement and responding rapidly to situations when they change in order to minimize the total work required.

But before firms can get to that level of sophistication, they need to start with the basics. And as one chairman in our research summed it up:

Most of our clients are no better at understanding or applying legal project management than we are. But in the future, the fact that you can actually do something on time and within budget is going to become an important indicator of whether or not you really are a good lawyer.

About the Author

Jim Hassett founded LegalBizDev to help law firms increase client satisfaction and profitability by improving project management and business development. His firm has developed and delivered award winning training since 1985. Jim holds a Ph.D. in psychology from Harvard University. *Client Value and Law Firm Profitability* is his 13th book.

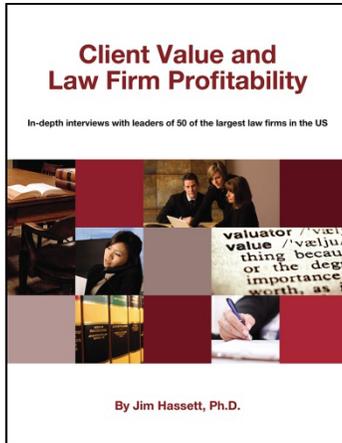
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⁹ Robert W. Wysocki, *Effective Project Management: Traditional, Agile, Extreme, Sixth Edition* (Wiley Publishing, 2012).

¹⁰ Martin Fowler and Jim Highsmith, “The Agile Manifesto,” *Software Development* 9, No. 8 (August 2001), 28-32.

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