

Expert analysis 10: Legal project management – A trend that is here to stay

By Jim Hassett, founder, LegalBizDev

IN ONE sense, any lawyer who has ever planned a budget or managed an associate has acted as a project manager. But a new movement is underway to improve legal project management (LPM) by applying formal methods that have been used for decades in engineering, construction, information technology, government contracting and other businesses.

Some history

The modern discipline of project management is such a rich and deep body of knowledge that universities offer advanced degrees in the field. Its origins can be traced to the Nautilus nuclear submarine program after World War II and even further back to civil engineers in ancient Rome constructing a 53,000-mile network of roads, many of which are still in use today.

In 1969, five professionals formed an organization called the Project Management Institute (PMI) to facilitate communication in this discipline. PMI now has more than half a million members in 185 countries, organized into dozens of chapters and communities of practice. It is interesting to note that the PMI sub-group which focuses on LPM was founded in September 2010. By the following August, it had over 1000 members.

As one article in *Canadian Lawyer* put it last year, "Project management is so new to the legal profession that everyone is still

trying to figure out what it can do and how to make it work."¹

Despite this uncertainty, many law firms are beginning to implement a variety of types of LPM programs. When *The American Lawyer* published the results of its annual 'Law Firm Leaders Survey' in December 2010, 55 per cent of AmLaw 200 firms reported that they offer project management training to partners, and 34 per cent said they offer it to associates.

The sudden growth of LPM

Why is LPM spreading so quickly? According to a *National Law Review* article by Squire Sanders' partners Stacy Ballin and Mitch Thompson: "The world has changed, and clients need more than ever from their law firms. They want their lawyers to partner with them to achieve their business goals and deliver value, not to merely send them a monthly bill showing how many hours have been spent. Like every other kind of business worldwide, law firms are becoming more cost-effective and efficient in providing their services."²

The growth of non-hourly alternative fee arrangements (AFAs) has also played a role. When a law firm agrees to handle a certain matter for a flat rate, it must find a way to meet legal needs within a limited budget. The less the firm spends, the more money it will make.

But, as a senior partner at a 500-lawyer firm put it in an interview for The LegalBizDev 'Survey of Alternative Fees': "For

alternative billing to be successful for both the client and law firm, the partners have to re-think their approach and try to decide the most efficient way to approach matters. For example, instead of sending an associate off to research 50 issues that could come up in a litigation case, you might focus strictly on the small number of issues that are likely to be most important."³

Project management skills can also help lawyers protect the profitability of hourly work in a number of ways, including reduced write-offs. There are many reasons write-offs occur, but poor communication is frequently the key. Consider this scenario from a senior partner at an 800-lawyer firm: "[The client asks] 'What's it going to cost?' and [the lawyer] says, 'Oh, I can't tell you, we don't have enough facts. But normally a deal of this size would run \$120,000 to \$150,000'. The client hears, 'You've promised me \$120,000'. And then that's it. That's your fixed fee. And you don't know that, of course, because you thought what you did was say, 'This is what it costs on average'. And at the end the client would say, 'Gee, this cost \$200,000, how is that possible?' And you think, 'Well, you know, your CEO got fired in the middle of the deal. The deal dragged on for three years. It turned out you got sued. Yeah, it cost \$200K'."⁴

LPM solutions

Problems like these could be reduced or eliminated by focusing on the eight key issues in LPM described in my book, *The Legal Project Management Quick Reference Guide*, and outlined in Box 1. It all starts with clearly defining the scope of the work at the outset – what is included in the budget and what is not. Planning and managing the budget is especially important as the project proceeds. So is negotiating a change of scope when issues first become apparent,

rather than waiting until the end of a matter and just sending a bill.

Perhaps the most important issue of all is number two, identifying and scheduling activities. As Erik Verzuh explained in *The Fast Forward MBA in Project Management*: "This is the secret of successful project management: Break the project into small, meaningful, manageable units of work."⁵

In the law, this is much harder than it looks.

In the mid-1990s, a joint group from The American Bar Association, the Association of Corporate Counsel and PricewaterhouseCoopers began working on the UTBMS [the Uniform Task-Based Management System] a group of codes that are used for electronic billing.⁶ That system is still evolving today, nearly two decades later.

It is critical to think clearly about the deliverables that a client will receive for a particular matter, and the tasks that are required to complete them. Your team will be far more efficient if everyone knows exactly what they must do, and has an idea of how long it should take. A sophisticated work breakdown structure can also help educate clients about the process that is involved, and help to meet their needs.

How lawyers are adapting to change

LPM requires fundamental changes in the ways lawyers do business. Change is difficult for anyone, and it is especially challenging for lawyers who have developed strong habits over several decades. As Richard Susskind noted in his widely quoted book *The End of Lawyers?*, "It is not easy to convince a group of millionaires... that their business model is wrong."⁷ But the environment is changing and lawyers must adapt.

Some aspects of LPM are easy to implement, but others require a fundamental change in mindset, including:

- More upfront planning;
- Increased management;
- Closer monitoring of spending;
- Selective standardization; and
- Accepting some risk to lower cost.

Firms are now experimenting with a variety of techniques to introduce project management. The key word in that sentence is ‘experimenting’. Lawyers would prefer to act based on solid precedents, models that have proven their worth over decades. But LPM is a brand new field, and those who wait decades to apply it do so at their own risk.

When lawyers begin considering what to do, they often start the discussion with the approaches that have been most widely publicized, such as Seyfarth Shaw’s use of six sigma and lean. According to Seyfarth’s web page: “With more than 100 projects executed [we have] applied SeyfarthLean in every practice throughout the firm to deliver quality and efficiency that also delivered client cost savings ranging from 15 to 50 per cent.”

While the results have been impressive, lean is not the best place for most firms to start because it is such an expensive way to go. According to an April 2010 *American Lawyer* article, “Seyfarth has spent over \$3m to date administering and training workers... and budgets \$200,000-\$500,000 annually for such costs.”⁸ Similarly, Eversheds has been widely recognized for the success it has achieved through massive project management training programs and software systems. But it has spent even more: over £10m, according to Eversheds’ website.

Some lawyers have been focused on project management ideas for years, developing more focused tactics and tools, often under the radar. For example, Deal Dashboard is a web-based collaborative

deal space custom developed by lawyers Byron Kalogerou and Terry Mahoney at McDermott Will & Emery. The Deal Dashboard offers a sophisticated set of web-based tools that, as a McDermott brochure puts it: “streamline the M&A process, reducing inefficiencies and costs. The dashboard enables counsel to corral all of the moving pieces of a deal, so that everyone involved knows what needs to be done, by when, by whom, and at what cost”.

Firms that are looking for more affordable solutions sometimes start by focusing on the role of non-lawyer project managers. Many law firms already have project managers in-house in IT and other departments and their roles are expanding to include planning legal work. Others are hiring new project managers specifically for that purpose. We predict that some of these experiments will succeed and others will fail, depending on the culture of each firm and how well each project manager can learn to function within complex power structures. Some law firms will waste a lot of money on having project managers devise plans that influential partners will ignore.

Certifying legal project managers

Many of the non-lawyer project managers who now work for law firms have been certified by the PMI. A more recent trend involves certifications that are specifically designed for the legal profession, including my company’s Certified Legal Project Manager program, which was introduced in December 2010. Lawyers work with a coach for up to six months, studying leading textbooks and discussing how to best apply the principles to their own practice.

In August 2011, we introduced a Certified Legal Project Planner program for associates and non-lawyers, including financial staff, paralegals and law clerks, who play an

important role in planning and managing large legal projects, but who have limited authority.

Other certification programs are sure to follow, designed to create a core group of lawyers and non-lawyers who become experts in managing projects and lead the effort for their firms to transition to this new way of doing business.

Educating *versus* changing behavior

A few firms are training all of their lawyers in project management principles. This approach got a big boost in April 2010 when Dechert announced that it had just completed training all its partners.⁹

Professionals in the training business often talk about the importance of distinguishing between two types of goals: education and behavior change. Of course, almost every training program aims at both. But clients get the greatest return on their training investment when they think carefully about the tradeoffs between the two and about which is more important to their firm.

Educating is relatively easy, but changing behavior is very hard. It is also the central problem in LPM. The Association of Corporate Counsel and the ABA recently conducted a meeting “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.”¹⁰ It’s not a question of knowing what to do; it’s a question of getting lawyers to do it.

One approach to changing behavior for a low cost includes just-in-time training, an approach that enables lawyers to

save time by finding exactly the information they need, just when they need it, and then following up with them to insure it is applied to their work with immediate and practical effect. Camden R. Webb, a partner at Williams Mullen who participated in one such program conducted by my company, described the action-oriented philosophy this way: “Don’t hold a series of committee meetings for a year and then do a top-down analysis. Just do something. This will spread project management, because when lawyers succeed, others in the firm will imitate their success.”

Which of these many approaches is best? There is no one right answer. The best solution for a given firm or practice group will depend on its culture and needs. Large firms may find that they need several different types of solutions for different practice groups or offices. Some may be paralyzed by the risk of doing the wrong thing. But there is so much room for improvement that many different approaches will have positive effects. And the greater risk is to do nothing, while competitors take away your clients.

This uncertainty makes it easy for some partners to be skeptical about the value of LPM. They believe, and indeed hope, that project management is just another fad that will fade away over time. But when Altman Weil surveyed managing partners and chairpersons in its 2011 *Law Firms in Transition Survey*, 94 per cent said that the focus on improved practice efficiency is a permanent change in the way law firms do business.

As Barbara Boake and Rick Kathuria of McCarthy Tétrault noted in their 2011 book *Project Management for Lawyers*: “The recession was merely a catalyst for an inevitable shift in the balance of power from seller to buyer that will have a long-term impact on the way lawyers work.”¹¹

And as the CFO of a 1,000-lawyer firm in our AFA survey summed it up: “A large number of lawyers do not know how to manage. [In the past] the more hours that got charged, the more money [they] made, and so they’ve never really had to manage... If we teach our people to manage, we can make more money.”

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Eight key issues in LPM

1. Set objectives and define scope – in order to complete a legal matter efficiently, you must know exactly what is included, and what is not.
2. Identify and schedule activities – after scope is clearly defined, the next step is to break down a complex matter into smaller tasks and to schedule them.
3. Assign tasks and manage the team – to maximize efficiency, the right people must be assigned to the right tasks, and performance must be monitored.
4. Plan and manage the budget – estimating and controlling costs are a challenge in every profession, and this is the most critical area for many lawyers.
5. Assess risks to the budget and schedule – what can you do at the beginning of a matter to increase the chances that work will be completed on time, within budget?
6. Manage quality – traditionally, lawyers have been very successful in delivering high quality legal work. However, when schedules change and budgets get reduced, delivering quality requires more attention, and lawyers must be careful to avoid delivering higher quality than the client wants or has budgeted for.
7. Manage client communication and expectations – along with budgets, communication is the area that matters most to clients, and it is an area where many lawyers have room to improve.
8. Negotiate change orders – no matter how well lawyers manage legal matters, sometimes things change. The issue here is deciding exactly when and how to negotiate with clients.