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What every lawyer needs to know about project management

By Jim Hassett, Ph.D.

When I interviewed AmLaw 100 chairmen, senior partners and C-level executives for a recent survey of alternative fees, many predicted dramatic changes in the legal profession.¹ The prediction that surprised me the most was a move to adapt project management techniques from other businesses. As the CFO of a firm with more than 1,000 lawyers succinctly put it, “If we teach our people to manage, we can make more money.”

Project management techniques can reduce costs and increase profitability for any type of legal billing arrangement. The results are easiest to see with fixed fees. 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 that CFO went on to explain:

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 [costs].

Similarly, a senior partner at a 500-lawyer firm said that:

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.

The executive director of a third large firm said:

¹ www.legalbizdev.com/survey

Lawyers are not known for being the greatest project management folks in the world. If they are going to try alternative billing methods, they have to be able to deliver what they are offering. This is a fundamental change in the industry, and lawyers will have to improve their project management skills in order to succeed in this area.

The pressure to reduce costs

Of course, much of the momentum in the alternative fees movement is coming from clients' needs to cut legal costs. This pressure started long before the Great Recession, with companies like DuPont, Cisco, FMC Technologies, and Pfizer in the lead. According to a recent survey from the Association of Corporate Counsel, 81% of in-house counsel are trying to reduce their legal spend.² The BTI Consulting Group has reported in its Premium Practices Forecast 2010 that spending on outside counsel dropped 10.8% last year.³ They also predicted that it will decline another 4.3% in 2010.

But it is hard for lawyers to imagine doing more with less. For their entire careers, they have been trained to leave no stone unturned in protecting clients' interests. If it happened to take a large number of hours to turn over some of those stones, the client would be better off and the firm would make more money. As the American Bar Association's Commission on Billable Hours summed it up in their 2002 final report, "Hourly billing allows, indeed may encourage, profligate work habits. A cost-plus contract can degenerate into disregard for basic market discipline" (p. 8).

At a moment in history when no one can doubt that legal budgets are being cut, project management skills can help lawyers protect the profitability of hourly work. If a client's legal budget is reduced 10%, there are only two ways to keep the business: discount your hourly rates (and cut your profits) to save the 10%, or find a way to meet the client's true need at standard rates, in fewer hours. Project management will allow lawyers to deliver the second, more profitable, solution.

As a senior partner at another large firm put it:

More pressure on the lawyers managing the matter to be efficient and to staff the matter at the lowest possible level is a good thing. It forces lawyers to take a hard look at costs and benefits. Is it really necessary to proofread that agreement eight times?

² http://www.serengetilaw.com/News/p091019_ACC_Survey.htm

³ <http://www.law.com/jsp/article.jsp?id=1202434410545>

Or, as a decision maker at a different firm said:

We really need to manage matters much more closely than we ever did before, make sure that they're being staffed and handled efficiently. Clients don't want new lawyers working on their matters. Rather than have a first-year associate spend ten hours researching something, they'd rather have a senior partner spend half an hour and solve the problem.

Is it possible to control the costs of legal matters?

While some lawyers have been working on a fixed price basis for years, others still believe that fixed fees simply cannot be applied to complex legal matters. The cost of defending a suit may be very low if your opponent is willing to settle early in the process. But if they engage in scorched earth tactics, the cost of defending the same matter will be much, much higher.

While it is certainly true that total costs are impossible to predict, it is also true that some law firms are offering fixed fees for one phase of a case at a time. This requires a "win some, lose some" mentality which many large firms now accept. As the managing partner of a firm with over 1,300 lawyers put it:

Everybody in business plays the odds. We've had situations in corporate deals where we've really gotten burned on something. But if it's a good client, they don't say, "gotcha" and laugh about the fact that you made a bad deal. They say, "We're going to do more deals," and life goes on. And you assume that you'll make it up in volume with better situations.

These days, many clients want predictable legal costs, and they will do business only with law firms that offer them.

One of the most interesting observations in my research was made by a senior executive at a 1,000-lawyer firm who had previously worked at a publicly-traded real estate company:

The two most important people we had in the company were the estimator and the project manager. Law firms historically have had no one play either of those roles. It's very dangerous to move into a world of fixed fees if you don't have somebody who's capable of estimating and you don't have somebody who's capable of project managing.

The discipline of project management

Historians have traced the origins of project management to the pyramids, the Great Wall of China, and civil engineers in ancient Rome who oversaw the construction of a 53,000-mile network of roads, many of which are still in use today. The modern discipline of project management developed in response to schedule pressures during and after World War II. Admiral Hyman Rickover developed the Program Evaluation and Review Technique (PERT) to manage the Nautilus nuclear submarine program from 1951-1954.⁴ In 1957, DuPont began developing the Critical Path Method (CPM) to plan the complex process of opening multiple chemical plants.⁵ The Apollo program applied these methods and more to put a man on the Moon by 1969.⁶

Since then, a number of professional associations have grown in influence, including the Project Management Institute, which now has “more than half a million members and credential holders in 185 countries.”⁷ Some institutions of higher learning now offer master’s degrees in project management.

These days, project management techniques are routinely applied many fields, including information technology, engineering and construction.

The argument has already started about exactly how much of this knowledge lawyers need. We believe that less is more. We’ve found that many lawyers can quickly find ways to save time and money simply by focusing on the low hanging fruit.

For example, we recently conducted a workshop at Warner Norcross & Judd in which senior partners quickly reviewed project management best practices and picked out the ones that best fit their needs.⁸ After reviewing our list, one lawyer decided to focus on setting estimated hourly goals before beginning each task. He noted that the firm already did this with law students in their summer programs. When these interns were given a new assignment, they were asked to estimate how many hours it would take before they began. If the estimate seemed out of line, the supervising lawyer discussed the task with the law student to see if he or she really understood what was required. The lawyer from our workshop is now adapting this technique to working with his partners on alternative fee matters.

⁴ http://en.wikipedia.org/wiki/Program_Evaluation_and_Review_Technique

⁵ http://en.wikipedia.org/wiki/Critical_path_method

⁶ http://en.wikipedia.org/wiki/Apollo_program

⁷ <http://www.pmi.org>

⁸ <http://www.wnj.com>

How to reduce write-offs

Another best practice discussed in our project management workshop at Warner Norcross & Judd was just as simple and even more likely to quickly impact the bottom line: “Hold difficult conversations before money is spent, not after.”

Anyone who has been involved with law firm finances knows the importance of the *realization rate*, the percentage of billable time that is paid for by clients. The precise definition of which hours are included and excluded from the realization rate varies a bit from firm to firm. The calculation typically includes work that was completed but never billed (for example, a junior associate running wild on a research assignment; the relationship partner might never bill the client for that work), and expenses that were billed but not paid. Unpaid bills may be classified as post-facto discounts, write offs, or bad debts. But whatever you call them, they reflect lost income, which could have gone directly to the bottom line.

There are many reasons write-offs occur, but poor communication is frequently the key. Consider this scenario from a senior partner of an 800-lawyer firm in our survey:

[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 \$120K-\$150K.” The client hears, “You’ve promised me \$120K.” 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 \$200K, 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.”

In the same interview, the COO of the firm commented that:

You can’t wait until the end to talk about all the change orders. You really have to not be afraid to address these issues. A lot of partners don’t want to do that.

If the lawyer in this scenario had discussed the issues with the client early in the process, she might have gotten a larger payment, or perhaps she could have satisfied the client’s true need with fewer billable hours.

Unsatisfactory realization rates have always been a problem for law firms, and they are getting worse. Hildebrandt Baker Robbins tracks data on billing realization and collection realization rates in their Peer Monitor survey of 40

AmLaw 100 firms, 35 AmLaw 101-200 firms, and 52 additional firms. As noted their 2010 Client Advisory, in 2007 both rates were around 95%.⁹ By the end of 2009, billing had declined to about 93% and collections to about 90%. Project management tactics offer the potential to improve those rates and have a huge impact on the bottom line.

Eight key issues

Now, you don't need a master's degree in project management or a professional certification to discuss ideas like "estimate hours in advance" or "have difficult conversations before you spend, not after." With lawyers, it is easy to find ways to reduce costs. The hard part is getting them to do it.

The difficulty of getting from knowledge to action is the core challenge of all adult training programs, and it is one that my company has been working on for 25 years. (Before we started working exclusively with lawyers and changed the company name to LegalBizDev, we had worked for nearly two decades developing custom training programs for financial services firms, government agencies, and others.)

One key way that training experts maximize follow-up is to let each individual focus on the topics that interest them the most, rather than trying to force everyone in a group to review the same general concepts. When lawyers participate in our project management workshops, they use a customized version of my *Legal Project Management Quick Reference Guide*, which lists dozens of best practices organized in terms of eight key issues:

1. Set objectives and define scope
2. Identify and schedule activities
3. Assign tasks and manage the team
4. Plan and manage the budget
5. Assess risks
6. Manage quality
7. Manage client communication and expectations
8. Negotiate changes of scope

Getting lawyers to act on the items they select requires an understanding of how lawyers operate at large firms, and how to effectively communicate with them. The bad news is that an effective program requires professional training techniques, politics, psychology, and unrelenting follow-up. The good news is that it works. And it starts by getting lawyers to buy into the concept of tradeoffs.

⁹ <http://www.hildebrandt.com/2010ClientAdvisory>

It's all about tradeoffs

If we lived in a perfect world with unlimited resources, no one would need project managers. But here on Earth, resources are limited, and managers are constantly forced to make difficult choices. For example, when computer programmers develop a new product, no matter how good the product may be, someone can always think of a way to make it even better. But each new feature requires time and money. If software companies intend to stay in business, someone must decide which changes are worth making and which are not. That's why experts talk about the "project management triangle": every project is constrained by scope, schedule, and budget. If you change one, the others change too.

As project managers often put it, "Better is the enemy of good enough." The phrase can be traced back to Voltaire, and is not an endorsement of mediocrity. It is an endorsement of pragmatism, of analyzing the cost of each action in advance, and proceeding only if that cost can be justified by its return.

It is human nature to always seek a better solution and for each of us to add our own personal stamp. It is the project manager's job to keep human nature in check and thus assure that projects are completed on time and within budget. As a Deputy Division Chief at NASA put it in an article about the space program:

In our zeal to solve problems in new and innovative ways, project managers must be prudent not to allow requirements creep or design solutions to bankrupt the whole project.¹⁰

Many lawyers have spent their entire careers with little motivation to deliver within budget. The billable hour has implied that the more thorough lawyers were (and the longer things took), the more money they made.

A few years ago, after I gave a business development speech at a law firm retreat, one lawyer came up to me to ask how to handle a client problem. He had recently completed an assignment for a real estate developer, and written what he called "the perfect lease." It was one of the proudest moments of his legal career, and his colleagues agreed that he had crafted language which would protect the client's interests under any conceivable scenario. There was just one problem: the client hated it. Well, they didn't hate the lease, they hated the bill. They also refused to pay it, because they had been expecting a much lower cost.

So this lawyer asked me: How can I make my client understand that the perfect lease was worth the money? My answer: You probably can't. If that's not what

¹⁰ http://askmagazine.nasa.gov/issues/03/03p_practices_better.php

the client wanted, it is not perfect. What you need to do is go back to the client, ask a lot of probing questions, and listen. Don't argue, don't talk, just listen. When you understand what they wanted to buy, then you will be in a position to negotiate a price they will pay, and you can try to salvage the relationship so you will get more of their business in the future.

It all goes back to the best practice mentioned above: hold difficult conversations before money is spent, not after.

More ambitious solutions

Many law firms are working on the problem of increasing efficiency, and some are going far beyond the low hanging fruit. Near the top of the ambitious list is Seyfarth Shaw's program to adapt Six Sigma management techniques to the legal profession. Six Sigma was invented at Motorola in the 1980s and has since been applied by more than two-thirds of Fortune 500 companies to improve quality and reduce costs. It is built around sophisticated tools and methodologies that force people to get to the heart of a problem and figure out how to re-engineer business processes.

According to *Six Sigma for Dummies* (page 10), the approach is "not for the faint of heart. It is intense and rigorous, and it entails a thorough inspection of the way everything is done."¹¹ Would you guess that implementing an approach like this would be fast or cheap? If you guessed *no* and *no*, you are getting warm.

An article which describes the evolution of Seyfarth's program, quotes Carla Goldstein, Seyfarth's director of strategic management, about the way lawyers reacted when the process started in 2006: "We were dying. [The consultants] came in with these binders of jargon and statistics and numbers and the lawyers' eyes were rolling around in their heads."¹² But Seyfarth adapted the approach, and in the last few years have certified 75 Seyfarth lawyers and staff members (including every lawyer on the executive committee) as "Six Sigma Green Belts," which "requires completion of an intensive four-month training program and the successful completion of two Six Sigma projects." They've since trimmed the program, renamed it *SeyfarthLean*, and report that the firm has increased cost predictability on more than 50 legal matters and reduced costs by 13% to 50%.¹³

Many of the process improvements they came up with quite straightforward. In a blog post last year, I quoted Lisa Damon, a partner at Seyfarth and one of the

¹¹ Craig Gygi, Neil DeCarlo, and Stephen R. Covey, *Six Sigma for Dummies* (Hoboken: Wiley Publishing, 2005), 10.

¹² http://www.abajournal.com/news/article/new_buzz_phrase_in_efficiency_efforts_process_management

¹³ http://www.seyfarth.com/index.cfm/fuseaction/firm_overview.six_sigma_approach/six_sigma_approach.cfm

leaders of the Six Sigma program who noted that: “If you get a group of lawyers and staff into a room to discuss how to make things more efficient, it’s very easy to find savings.”¹⁴

The future

When large law firms decide to increase efficiency, what exactly should they do? Should they try to re-engineer business processes using Six Sigma, or look for the low hanging fruit? Should they identify some people as “project managers”? Is that a responsibility for each relationship partner, or is it a separate role in the firm? Full time or part-time? For lawyers or non-lawyers? Should project managers be certified? How?

There are a lot of law firms in the world, and they have different needs and different cultures, so I don’t think any of these questions will be answered simply in the short term. The answers will vary not only from firm to firm, but even between practice groups within a firm. The best solution will fit each group’s culture, and the strengths and interests of the individual members.

This is a new frontier for law firms. Some experiments will succeed and some will fail. A general consensus will take time to emerge.

Some firms already have project managers in-house in IT and other departments, and in many cases their roles have started to expand to include helping plan legal work. Other firms are hiring new project managers specifically for this purpose. That’s a bit riskier, since law firms are extremely complicated organizations and newly hired individuals who don’t know the key players or the politics may have a hard time getting lawyers to act. Some firms may waste a lot of money on having project managers devise plans that influential partners will ignore.

I believe that the vast majority of firms will find that the most efficient answer is to quickly train senior lawyers on proven project management principles. Each individual can then select an action item that fits their practice and personality, and give it a try. If it works, do more. If it doesn’t, try something else.

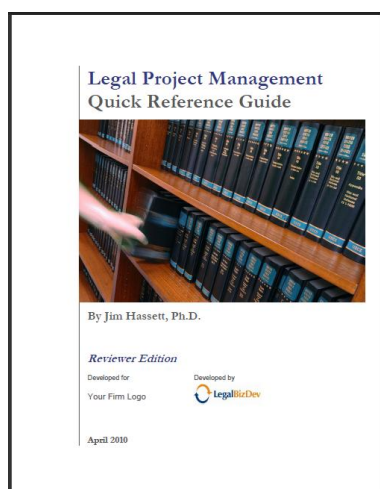
But whatever firms decide to try, it is clear that they must try something. As one large firm decision maker put it:

We need to be better managers of what we do for clients. If law firms do not take the lead in getting clear agreements with clients about the

¹⁴ http://adverselling.typepad.com/how_law_firms_sell/2009/01/alternative-fees-part-3-what-your-competitors-are-doing.html

work we are expected to do, and then manage our resources carefully to meet those agreements, we will be doing the same work for a lot less net income.

For more information, see:



The *Legal Project Management Quick Reference Guide* is provided to participants in LegalBizDev project management workshops.

The table of contents is customized for each client. An example appears below.

Table of Contents (customized for each client)

How this Guide can help you to increase profitability and improve client service

Your action items

Checklists of best practices

1. Set objectives and define scope
2. Identify and schedule activities
3. Assign tasks and manage the team
4. Plan and manage the budget
5. Assess risks
6. Manage quality
7. Manage client communication and expectations
8. Negotiate change orders

Examples

Templates

Matter planning template

Project risk analysis template

RACI matrix

Six steps to better budgets

Budgeting with UTBMS and other standard codes

Key questions project managers should ask
How to reduce cost by improving delegation

Background reading

What every lawyer needs to know about project management

Six sigma vs. lean vs. project management

Is it possible to predict legal costs?

Nine common types of alternative fees

What law firms should do to improve project management

What clients should do to improve project management

Proprietary templates and documents

About the author



Jim Hassett is the founder of LegalBizDev (www.legalbizdev.com), which helps law firms increase profitability by improving business development, alternative fees, and project management. Before he started working with lawyers, Jim had 20 years of experience as a sales trainer and consultant to companies from American Express to Zurich Financial Services. He has published eight books and numerous research reports, including *The LegalBizDev Guide to Alternative Fees*, *Legal Business Development: A Step by Step Guide* and

The LegalBizDev Desk Reference. He has also published more than 80 articles in the *New York Times Magazine*, *Of Counsel*, *Strategies: The Journal of Legal Marketing* and other publications. Jim has a Ph.D. from Harvard University and is an Adjunct Associate Professor at Boston University.

To discuss how LegalBizDev can help you increase profitability by improving business development, alternative fees, and project management, contact us today or visit our web page at:

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