

Sample chapter from

Legal Project Management, Pricing, and Alternative Fee Arrangements

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Chapter 5

Case studies in behavior change

Chapter 4 summarized how firms like Seyfarth, Dechert, Nixon Peabody and others have been applying LPM to deliver greater value to their clients while protecting profitability. All of these firms, and many others not mentioned in this book, have reported significant progress and benefits.

The truth is, in the current legal marketplace, it is easy to obtain benefits from LPM. Historically, lawyers have been trained and compensated to focus only on getting the best legal result. Under the hourly business model, few clients asked lawyers to be efficient, and few lawyers tried.

As a result, as Lisa Damon of Seyfarth Shaw has noted, “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.”¹

Compared to the habits that developed under the billable hour, almost any systematic procedure will make things better. When evaluating the relative merits of different approaches to training, the key question is: how quickly will lawyers change their behavior, and what will it cost?

These days, law firms are increasingly looking for the tactics that produce the best return on investment, by delivering the greatest impact in the shortest amount of

¹ http://adverselling.typepad.com/how_law_firms_sell/2012/06/tracking-legal-costs-with-task-codes-different-firms-take-different-approaches-part-3-of-3.html

time. We have found that the key to success is to start by focusing on behavior change with a few key attorneys.

When ALM Legal Intelligence surveyed 236 law firm respondents about the best ways to implement LPM, they came to the same conclusion: “Partners most willing to adopt LPM should lead efforts in an incremental manner. The quicker there are demonstrable positive benefits, the faster other partners will take notice.”²

As Christopher Spizzirri, e-discovery counsel at Morris James, put it in that same survey, “You’ve got to introduce one element of change at a time and work that. I learned early on that if you try to change too many things at once, you get a lot of resistance.”³

Professionals in the training business often talk about the importance of distinguishing between two types of goals: education and behavior change. Almost every training program aims at both. But education often fails to change behavior. If you study ten books about how to lose weight, you may become very knowledgeable about what you should and should not do. But you won’t lose a pound until you change your behavior.

Organizations get the greatest return on their training investment when they think carefully about the tradeoffs between the two and about which is more important in a particular situation.

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 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.”⁴ It’s not a question of knowing what to do, it’s a question of getting lawyers to do it.

Many law firms are still focused on traditional programs that educate and transmit information. Attorneys are being trained in LPM, CLE credits are being granted, online courses are being completed, and books and articles are being scrutinized.

The good news about traditional training is that you can finish it quickly. Hold a few large workshops, put out a press release announcing that your firm has made a commitment to LPM, and you’re done. It’s easiest of all if you focus on training associates and hope that the management lessons they learn will trickle uphill.

² ALM Legal Intelligence, “Legal Project Management: Much Promise, Many Hurdles,” 17.

³ ALM Legal Intelligence, “Legal Project Management: Much Promise, Many Hurdles,” 16.

⁴ Susan Hackett, Barb Dawson and Laura Ariane Miller, “Valuing Litigation: Lessons Learned from Collaboration,” *ACC Docket* (May 2011), 130.

Most associates will show up, and their grumbling will be more muted than with partners.

The bad news is that if you want to change behavior, traditional training is not enough.

We recommend an approach which is widely used in other professions, but new to law: “just-in-time” training and coaching. Background on this approach appears in the section below on “How to maximize the impact of training.” If you prefer to skip the theory and go directly to examples of how it has worked, jump ahead to one or all of the case studies in this chapter, from four clients that have used slightly different tactics to begin changing lawyers’ behavior.

At all four firms, we started by helping a few influential partners directly experience the immediate benefits of LPM. Each lawyer focused on the issues that would have the greatest impact for their practice in the short term. They identified clients and concrete action items and began working on them immediately. Once they saw the results, they became internal champions for LPM and spread the word.

The way they did this, and what happened next, varied from one firm to another. The four case studies are presented in chronological order, starting with the firm we have worked with longest:

- Squire Sanders started by putting one of its most senior litigators through our Certified Legal Project Manager[®] program, and then proceeded to conduct client/firm collaboration workshops with important clients
- Williams Mullen started with two just-in-time training programs for influential partners, and then had us conduct a course for 30 of their most influential rainmakers
- Gray Plant Mooty focused on the just-in-time training approach, and has run three programs as of the date this account was written
- Bilzin Sumberg took the most ambitious approach and has seen the biggest results. They have offered three months of intensive just-in-time coaching to almost half of their partners to date, including the vast majority of those who manage large matters.

If you don’t have time to read this entire chapter, start with the most recent example, the Bilzin Sumberg case study.

At all four of these firms, and at every other law firm on the planet, LPM is a work in progress. As Harry Trueheart, chairman emeritus at Nixon Peabody, put it, “A lot of education will go into this, and it’s not cheap.”⁵

⁵ Jim Hassett, *The LegalBizDev Guide to Alternative Fees*, (Boston: LegalBizDev, 2009), 142.

While true change will be neither fast nor easy, the slow pace of the entire profession can lead to good news when firms begin to make progress. One of our clients contacted us recently to report that she had just won some business as a result of LPM skills developed in one of our just-in-time workshops two years before. She said she was frustrated with the slow pace of change in her firm, but that their competitors were even slower. “If you move like a turtle but you’re racing a bunch of snails,” she said, “It all works out in the end.”

How to maximize the impact of training

When I started LegalBizDev in 1985, the company was named Brattle Systems and we developed custom training programs for government agencies and for companies from American Express to Zurich Financial Services. Over the two decades that we specialized in custom training, the business changed significantly as clients cut back on traditional training budgets and shifted instead towards a more cost effective “just-in-time” approach.

For example, in the late 1980s there was a huge market for people taking classes to learn how to use new software. But these days when people want to know how to use advanced features of Word or Excel, few would consider signing up for a class or even looking up the answer in a book. Instead, they use the convenient “just-in-time” help systems and training tools that Microsoft has built into each program, and simply look up what they need when they need it.

“Just-in-time” training tactics have been applied to almost every field you can think of, including project management. For one example, see the study of “The use of ‘just-in-time’ training in a project environment,” that appeared in the *International Journal of Project Management*.⁶ The authors start by pointing out that “Around 40% of the knowledge acquired in training is lost after a break of one month, rising to 90% after six months,” and go on to show how the problem can be solved: by providing access to tools that allow people to solve the problems they care about, just in time.

Given what we knew about what worked best in other businesses, when we saw lawyers recognize the need for LPM training, we decided to apply the “just-in-time” approach. We publicized our approach in March 2010, in the first article AmLaw Daily published on project management.⁷

Two weeks after the AmLaw Daily piece appeared, another article appeared on Law.com announcing that every partner at Dechert had completed project

⁶ www.sciencedirect.com/science?_ob=ArticleURL&_udi=B6V9V433PBK53&_user=10&_coverDate=07%2F31%2F2001&_alid=1314695237&_rdoc=1&_fmt=high&_orig=search&_cdi=5908&_sort=r&_docanchor=&view=c&_ct=631&_acct=C000050221&_version=1&_urlVersion=0&_userid=10&md5=d0e6cedc277e256b18529002fc232edb

⁷ <http://amlawdaily.typepad.com/amlawdaily/2010/03/hassett.html>

management training.⁸ The phones of every LPM consultant started ringing the morning the Dechert article appeared. Over the next several months, we talked to many firms that wanted to take the same approach. We did our best to discourage them.

I particularly remember one RFP which asked us to bid on traditional education course for over 500 lawyers at an AmLaw 100 firm. This was a serious test of how strongly we felt, and we had a spirited internal discussion about whether we should bid.

We asked the client if they would consider focusing their efforts on a smaller number of lawyers, the ones who were motivated to change. The client said no, they wanted to train everyone. We explained that while we thought the top-down “train everyone” approach could have some success, it would be a very expensive way to get modest results and it could even backfire by increasing resistance among some lawyers. In the end, we declined to bid.

These days, almost no one recommends the “train everybody” approach.

However, we do still see law firms that want to identify a complete solution before they will take the first step. Sometimes this takes the form of looking for a project management software system that everyone can use, or a project management professional who will magically fix everything. A committee is assigned, the meetings drag on, and a very long time is spent on thinking rather than on doing anything.

As Toby Brown, the director of strategic pricing and analytics at Akin Gump, has put it:

It's classic for a firm to “build then do” with software and other systems. A committee attempts to anticipate every need a proposed system might meet before it is developed and rolled out. The thinking has been that more input is better, and the process will insure that new systems meet the needs of all the lawyers in the firm. In my opinion, this has never worked. Design by committee is a recipe for failure. Instead of a focused, functional system, you end up with a bloated one that doesn't address the original need.... Until you start doing legal project management, you are not going to know your software and system needs. Buying and implementing software and establishing policies and processes before you know what you need doesn't make sense. Cart—get thee behind the horse!⁹

⁸ http://www.law.com/jsp/article.jsp?id=1202447368069&Dechert_Puts_Its_Attorneys_Through_Project_Management_Training&slreturn=20120806081352

⁹ Personal correspondence, June 2010.

Instead of looking for the ultimate solution before they take any action, law firms should learn from software developers who use “Agile methods” to develop programs as quickly as possible. They develop a pilot version, try it out on typical users, make changes based on feedback, and try it out again. Rather than spending time on the perfect requirements document, they simply develop release after release until they have a product that truly meets user needs.

Agile concepts have taken hold in many businesses, as an increasingly competitive world has required vendors in every field to move faster and do more with less.

When we were in the custom training business, our clients sometimes required us to follow a formal training development process which demanded that multiple drafts of training materials be reviewed repeatedly by a group of subject matter experts, before they were tried out with a live audience of typical students.

That process did produce effective training programs, but they took a very long time to develop. And they were not very cost effective. In some cases, we developed training modules that were absolutely perfect from the subject matter expert’s point of view, only to find that students did not benefit from them. Those modules were dropped from the course and all that development time and money was wasted.

After a few years, we began using a leaner process to get in front of students more quickly by rapidly developing pilot test materials and getting user feedback. This approach was faster, cheaper, and ultimately more effective. That’s one of the elements of the just-in-time training and coaching approach that we recommend for legal project management.

In the just-in-time training and coaching programs described in the case studies below, each individual lawyer is guided simply to select action items that fit his or her practice and personality, and give it a try. When they work, do more. If they don’t work, try something else.

You won’t get a second chance to make a first impression, so you’d better make sure your first legal project management program is well designed and executed. If it fails, you are going to have a tough time building support for the second one.

In a quarter-century in the training business, we have found that the single most important factor in success is selecting the right people to be trained. This is particularly critical in an area like legal project management, where there may be resistance and skepticism about the behavior changes, not to mention more than a generation’s worth of inertia.

We recommend starting with lawyers who are open to new ideas and who have the most to gain. That could be the key partners who are responsible for new alternative fee arrangements. It could be relationship partners who are worried

about protecting business with key clients that are looking for greater efficiency and increased value from their outside counsel. It could be an entire practice group that is considering new checklists, templates, and processes to improve its competitive position.

The training may not be 100% perfect, but it will pay for itself several times over by enhancing client relationships and profitability. And its success will create a new group of evangelists within the firm who will spread the word that legal project management can help serve clients better.

The exact individuals and groups will vary from firm to firm. But in every case, the best lawyers to start with are those who are open-minded about change and efficiency, in a position to benefit when LPM makes a difference, and influential enough to quickly spread the word of their success.

Examples of the success of this approach appear in the four case studies below.

Squire Sanders: Certification and client/firm collaboration

Squire Sanders is a global firm with approximately 1,300 lawyers in 37 offices and 18 countries. Our work with them began, as it often does, with a presentation at their annual partners meeting. This one was in October 2010, and the topic was legal project management. Afterwards, I got into a discussion with litigator Stacy Ballin, then co-chair of Squire Sanders' Project Management Committee, about the potential value of a high level certification program for senior partners who wanted to lead LPM efforts within their firms.

At that time, Squire Sanders had already been working on LPM for several years and had hired Vince Cordo as their director of value and project management. Ballin told me that her firm's commitment to LPM grew out of the Association of Corporate Counsel's Value Challenge: "We accepted the Value Challenge a few years ago and rolled up our sleeves. The litigation group began by requiring an internal budget for all new cases, even if the client never requested one. We also required a case management plan that all team members could review to increase their efficiency."

Then Squire Sanders opened the process to the client. A custom-designed extranet database called MyMatter contains all the relevant documents for each case—case plans, court pleadings, witness lists, expert information, deposition summaries, engagement letters, budgets, invoices, and more. This gives immediate access to the key documents, in a single location, to the Squire Sanders team, to in-house counsel, and to client representatives.

To illustrate how it works, consider the example of a major international financial services company that is prosecuting a large number of foreclosure cases. Their in-house counsel and executives can access their MyMatter database in real-time

and obtain a bird's eye view of the status of every foreclosure case, including valuation determinations, expenses and potential risks. The client can also track the budget for each case and compare it to the legal spend to date.

As a result of my discussions with Ballin and others at the retreat, we designed the first formal program to certify lawyers as legal project managers. When we announced the program in December 2010, Ballin was one of the first to sign up.¹⁰

The certification program starts with a series of assignments based on required readings from leading project management texts. It ends with a final project to identify the concepts which could have the biggest impact on the lawyer's practice.

As the litigation group business partner, Ballin is responsible for approving discretionary write-downs, where a relationship partner decides not to bill a client for some of the time charged to a case and writes down a portion of the bill before it is sent to the client.

For the final project of her certification program, Ballin decided to review all 2010 litigation write-downs over \$10K. She found that a few young partners had unusually high write-down rates, which they explained as simply costs beyond budget or caused by a pattern of inefficiency.

Inefficiency reduces the value clients receive, and discretionary write-downs have an immediate negative impact on the bottom line. So Ballin decided to interview six of these young partners and explore with them how the firm could help them reduce inefficiency and write-downs in the future.

Her project began by developing a phone interview survey questionnaire based in part on the questions she answered in the first part of our certification program. She then "developed a plan as to how to use the results to reduce write-downs in the future, and to measure the financial impact of [her] recommendations." Finally, she used the findings to coach these lawyers and others with similar write-down patterns and found that coaching did indeed improve their realization rates.

Squire Sanders has not revealed its billing realization rate, but with annual revenues over \$500 million, an improvement of 1% would mean an immediate increase in profits of \$5 million.

One year after the program ended, Ballin was still applying these findings. As she summed it up in an email, "I am finding that building awareness of the need for

¹⁰ This is an intensive program, designed for the very small number of lawyers and staff who are willing and able to devote significant time to studying the most influential texts in the field, and analyzing how to adapt these best practices to the unique challenges and culture of their firm. The majority of the people who have participated to date were already leading their group's LPM efforts when they signed up and came to our program looking for more.

better project management is best achieved through coaching individual by individual. While that may seem less efficient with respect to time, it works much better than global education.”

Around the time that Ballin was being awarded her certificate as a Certified Legal Project Manager[®], Squire Sanders became the first firm to sign up for another new program: a client/firm collaboration workshop in LPM.

The program was designed to facilitate collaboration between large law firms and their most important clients by addressing the most fundamental question in the ACC Value Challenge: “Working together, how do we improve the value of legal services?”

As Paul Lippe of Legal OnRamp has noted, “The practice of law has shifted from an individual effort to one emphasizing teamwork and collaboration... When firms had a monopoly on expertise, delivery of service was a one-way street. But now most work involves collaboration and coordination between firms and clients.”¹¹

The key event in our program was a half-day workshop at the client’s office with seven active participants: the client’s general counsel and three of his key staff, and three leaders of the Squire Sanders client team that serves them: Dave Grauer, Keith Shumate and Heather Stutz. In addition, three other lawyers sat in as observers.

To start the day, we offered a brief overview of the eight key issues described in the course manual. Then we began a structured brainstorming process to efficiently identify action items: How could LPM principles quickly be applied to strengthen this particular relationship?

The brainstorming produced a list of 19 action items. The biggest category involved improved communication, including scheduling a “lessons learned” review session for one current matter, scheduling regular meetings for both the Squire Sanders team and for the in-house department, and scheduling a monthly call in which Squire Sanders briefed the client on legal trends in their industry, including ideas for enhancing revenue.

Other communication action items involved technology. Some were very simple uses of existing systems, including setting up a new folder on the client’s network to simplify internal access to key documents. A few involved new software solutions. As a result of the workshop discussion, Squire Sanders has now begun implementing its custom-designed extranet database, MyMatter, for this in-house department, in order to provide them with immediate access to key documents in a single location.

¹¹ Paul Lippe, “Emerging trends that are changing how lawyers and law firms work,” in *The Future of Legal Services*, 30.

Five of the 19 action items involved AFAs. Both Squire Sanders and this client were interested in exploring non-hourly AFAs, and the brainstorming process identified several specific steps toward this goal, including making a list of new work where AFAs made sense to both sides.

Does that sound like marketing? It should. The client/firm collaboration workshop is designed to strengthen relationships and increase value, which is a pretty good definition of marketing.

During the workshop, specific individuals volunteered to be responsible for each of the 19 items. Then, for the next 30 days, our coach followed up with participants to provide advice on implementation, along with gentle reminders to assure that the action items were actually performed.

After the follow-up was complete, we held a review telecon with the GC and the head of the Squire Sanders team. Interestingly, the GC chose to attend that meeting in person at Squire Sanders' office. He was there to follow up on a variety of joint actions, including several that had grown out of the workshop.

Of course, clients and their law firms have always collaborated, but never before in such a structured and efficient fashion. This workshop increased client satisfaction and collaboration efficiency and took the relationship to a new level. It helped integrate law firm services with client operations to deliver greater value to them.

Were there any problems? In my opinion, there was one big one: The participants simply could not find enough time to reap all the benefits of LPM. That challenge began the day the client agreed to the program and continued to the day it ended. It took several months to find a date when these extremely busy lawyers could all meet in the same room for the workshop, and in the follow-up period deadlines sometimes had to be adjusted due to other more pressing matters.

I was reminded of a series of posts that ran in the Association of Corporate Counsel blog a while ago that advised to "Follow the promise and pitfalls of forming a new value-based client-firm relationship." In Part 16 of the series Ken Grady, GC at Wolverine Worldwide, described the benefits of a program with Seyfarth, but then said, "What did we not do well? It took too long... General counsel of small legal departments often... get pulled in a lot of directions with little real control over their schedule."¹²

The fact that lawyers are busy is not exactly headline news. But lawyers, law firms, and their clients must find a way to collaborate, despite these barriers.

As Seyfarth Chairman, Steve Poor, has noted:

¹² <http://www.inhouseaccess.com/2010/10/01/a-value-based-client-firm-relationship-part-xvi/>

Much of what we've done is most effective when deployed in a collaborative change process with clients. What we overlooked at the outset is that, by and large, our clients are lawyers, too, and many of them are the products of the culture of their own business... The nature of the process requires a continuous, but slow march toward improvement and adaptation. Some things we tried worked and some did not. Nevertheless, the continuous move forward takes persistence and, perhaps, a bit of stubbornness.¹³

Williams Mullen: Just-in-time training plus a course

Williams Mullen, a 240-lawyer firm in North Carolina, Virginia, and Washington DC, provides an example of how the just-in-time training approach works.

The good news is that if you do it right, legal project management produces measurable benefits and develops its own momentum. The bad news is that change takes time, especially the kind of fundamental change that LPM ultimately involves.

We held the kickoff meeting for our first just-in-time training workshop at Williams Mullen in October 2010. The participants were three of their top litigators and three of their top transactional lawyers. In the workshop, each lawyer identified an LPM action item that could benefit their practice, and then a coach followed up with them for 30 days to maximize results.

Williams Mullen was so pleased with the results that they decided to schedule another session right away. As it turned out, "right away" meant four months, because that's how long it took to find a date that worked well for another six lawyers. That second group achieved even more. Then Williams Mullen got enthusiastic about rolling out a larger program that included more traditional training.

Again, the goal was to rush. But given law firm dynamics, programs like this inevitably take time to roll out. At Williams Mullen, a few key partners kept pushing forward, led by John Paris, chair of the firm's Innovation Committee. On several occasions when committees met, next steps were debated, dates slipped, and Paris apologized for the delays. When he did, I always thought to myself, "You should see how long other firms are taking."

Ten months after the second workshop, we offered our half-day "Introduction to Legal Project Management" workshop to about 35 of Williams Mullen's top rainmakers in their Richmond, Virginia office.

¹³ <http://dealbook.nytimes.com/2012/05/07/re-engineering-the-business-of-law/>

When we began preparing for the workshop, we had an unusual opportunity to go back and interview people who had participated in our just-in-time training eight to twelve months before.

Litigator Camden Webb stressed the marketing benefits of LPM: “The environment is tough out there and it’s a lot harder to get cases than it used to be. But the one thing that clients perk up about is when we describe a managed fee approach: ‘We’re going to predict what it will cost you before we start, and then keep you informed as things develop.’”

In litigation, LPM often requires a phased approach. “I can tell you what it will cost to respond to the specific complaint, and then we can scope out the rest... We can see what the next 30 days will look like and then go from there.”

Webb then cited several confidential examples of work Williams Mullen has gotten as a result of their emphasis on increased planning before cases begin, and aggressive management once they are underway.

He has also been developing standard tools and forms in order to “Take high-minded lawyer work and make it much more efficient.” For example, research guides for particular types of cases can serve as training tools for associates and refreshers for partners.

When we presented our LPM workshop at Williams Mullen, the handouts included a five-page sample from Webb’s toolkit (Checklist for Analyzing an Unfair and Deceptive Trade Practices Claim under N.C. Gen. Stat § 75-1.1, et seq). The handouts also included sample case plans that were developed from a checklist of questions to ask clients at the beginning of a case to define the scope and help determine what the most efficient team should look like.

Webb and his partners are creating a triage process for litigation. Templates, standard operating procedures, and forms are helping to make routine, repeatable work more efficient and to free up time for them to work on novel high-end cases.

On the transactional side of the house, M&A attorney Steve Burke has also seen LPM marketing benefits, especially in relation to alternative fee arrangements (AFAs).

Burke participated in Williams Mullen’s second just-in-time workshop in March 2011. When I interviewed him eight months later, he mentioned that a client had recently called him with a question about possibly using an AFA. “I was able to answer the question in 15 minutes,” Burke said. “Before our LPM training, that would have taken me much longer.”

This is not to say that the workshop introduced Burke to LPM for the first time. One of the reasons he had been selected to participate in the class was that he had a reputation as a highly organized proponent of careful matter management. But

before taking the class, Burke said, he always started project management later in the deal. Our just-in-time program enabled him to see that the sooner you start, the better off you are. Talking to the client more at the beginning and thinking clearly at the start about scope, fees, expectations, and how things will play out, makes an enormous difference in the way a matter is handled, instead of “Hitting the ball back and forth like a tennis match.”

These skills are especially useful for fixed fee matters. Does that mean that fixed fees are a way to higher profits? Some legal experts certainly think so. We wish they were right, but we think that in today’s highly competitive legal marketplace, a “win some, lose some” portfolio approach is more realistic at most firms.

That’s why some AFA leaders prefer to bid on portfolios of cases rather than single matters. Writing in ACC’s blog, Nicole Nehema Auerbach of Valorem put it this way:

Pricing a portfolio of matters... is easier for us and better for the client because it allows us to spread the risk inherent with one case across more. This allows us to provide a lower overall fee since the risk of an outlier, a deviation from the norm, is diminished. It also allows us to customize the bonus on either a case-by-case basis or some achievement for the portfolio overall. For example, our bonus can be tied to the overall savings in litigation spend, or simply the amount of savings we achieved across the portfolio in connection with settlement or judgment payouts.¹⁴

Or, as Williams Mullen’s Burke summed it up, “When you commit to billing on a fixed fee basis, you need to take the bad with the good and with a smile on your face.”

When I asked Camden Webb to predict the future, he said that the greatest challenge will be figuring out how closely they can adhere to the eight issues in our LPM book when they are deep in the throes of a particular case. “It is a lot easier to define the initial scope than it is to stick to it. The discipline of project management is difficult, especially dealing with issues like, ‘Yes, I do have to track my time, and yes, I do need to know how much has been spent at key milestones.’”

Transactional attorney Allison Domson spoke for the entire profession when she said, “Legal project management is a new mentality. It needs to be accepted, but it is going to take time.”

¹⁴ <http://www.inhouseaccess.com/2011/02/10/a-value-based-client-firm-relationship-part-iii-2/>

Gray Plant Mooty: Just-in-time training

Gray Plant Mooty is a Minneapolis-based firm with more than 150 lawyers.

Their interest in LPM started when Mark Williamson, the co-chair of the M&A practice and a member of the firm's board of directors, attended a two-day Legal Service Management Workshop put on by the Association of Corporate Counsel. Williamson walked out of that session convinced that Gray Plant Mooty and its clients could substantially benefit from LPM, and began to plan how.

In September 2011, the firm began with a pilot test of our just-in-time training workshop. Six participants, including Williamson, applied our identified action items, and a coach then followed up with each of the six for 30 days to assure success.

Williamson's action items revolved around creating an annual action plan for a fixed-fee regulatory program which included all of a public client's annual SEC filings, as well as producing and circulating minutes for board and board committee meetings. The effort involved creating a master schedule, task assignments, time allocations, and budget estimates. Among other things, he used simple tools already available in Outlook to create and share calendars, schedule meetings, and set internal lawyer team and external client reminders.

The results convinced Williamson and key partners that both clients and the firm could benefit if he expanded the approach to a variety of types of deals. Since then, M&A has become one of the most active practice groups in applying LPM in the firm. After the initial program was completed, he began developing and refining systematic processes to improve initial fee estimates and cost structures by breaking down complex matters into smaller tasks, planning and tracking the time spent on each task, and communicating better internally.

His group became particularly interested in using task codes to budget, plan, track, and manage the work, and began using their new knowledge to offer clients innovative fee structures as alternatives to traditional hourly billing. "It's being talked about more and more," Williamson said. "We are increasingly using these techniques on deals, and even lawyers who were skeptical initially are starting to use them."

According to the firm's Executive Director Karen Reynolds, one of the reasons the first pilot test was so successful was that the firm's new Finance Director, Shelbie O'Brien, was one of the six participants in the initial training. Like many great ideas, this happened by accident. The day before the first video workshop, one of the six lawyers who was scheduled to participate dropped out due to a last minute demand on her time, and O'Brien took her place. O'Brien decided to focus on improving the use of the tools and reports already available in the firm's financial software (Aderant) to help lawyers plan and manage budgets.

“Having Shelbie as part of the project management team means that she is actively involved on a daily basis in supporting the initiatives that developed as a result of the training,” said Reynolds. “To cite just one example, Shelbie and her finance staff are now working in a partnership with two attorneys in our Business Advisory Group and our IT staff to develop templates to gather information for AFAs and make it quicker and easier to create engagement letters for a variety of AFAs.”

Based on the success of the first just-in-time training workshop, the firm completed two more over the next nine months.

The expansion of the program highlighted the need to plan an LPM Sustainability Initiative to produce follow-up plans targeting each of the firm’s practice areas, in order to ensure the specific, actionable, and efficient use of attorney time, bring about the continued sharing of best practices among attorneys, and provide accountability to keep the LPM momentum moving. “We didn’t want legal project management to be something that we trained for, and then put on the shelf,” Reynolds explained. “We wanted a way to continue the momentum, to drive this into firm culture without having to pay consultants on a continuing basis.”

When the first just-in-time program was finished, Reynolds and Williamson began by holding monthly meetings in which the six participants talked about how to “spread [their] knowledge base.” When they added six more from the second workshop group, the meetings became harder to schedule and to run. Reynolds and I then brainstormed alternatives and decided to break the large group down into several smaller monthly meetings of just two or three key people who shared common interests and goals.

Reynolds now meets once a month with each small group to talk about their projects, discuss the outcomes of their LPM work, and review the resources that they need. The core members of each group bring selected other attorneys, including associates, into the project management work, in order to spread the knowledge base. Reynolds “connects the dots” between the groups and avoids overburdening the attorneys with long discussions that don’t relate to their practice areas. She also holds occasional meetings of all LPM participants so that everyone can be informed in a broad sense about what’s going on.

Gradually, LPM is being woven into the fabric of the way that the firm serves its clients. When we trained the second and third groups, we were excited to note that each group seemed more motivated than the one before, and that the action items they identified were increasingly sophisticated. Very simply, best practices spread because Gray Plant Mooty lawyers and their clients rapidly saw the benefits.

Of the practice groups that have made the most progress, the labor and employment group is near the top of the chart. In all honesty, this has been

surprising to firm insiders, including Judy Langevin, the senior partner who has led the labor and employment effort.

When we interviewed Langevin before the first workshop, she discussed her skepticism about the program and about LPM. Due to a last-minute work conflict, she was forced to drop out of the first program the day before the video workshop.

But Langevin signed up for the second workshop and ended up becoming one of LPM's strongest supporters. Her action items involved developing documents based on project management principles that can be used in their daily client work. Specifically, she created templates to streamline wage and hour compliance programs. She developed a prototype statement of work, a work breakdown structure, and sample budgets for use in planning, staffing, and pricing the work. This ultimately led to a document that outlines the procedures for conducting a review of an employer's classification of employees and compliance with federal wage/hour laws. It lists the types of information that the lawyers normally collect from the client and the factors affecting the fees to be charged.

After the program was complete, Langevin and her partners continued to create other templates, including one for estimating the costs of a litigation matter from the initial response to a lawsuit through the end of trial, with provisions for high and low estimates depending on the nature of the litigation. Additional compliance review templates have been developed for labor law, executive compensation, independent contractor review, social media and technology risk, 401(k) review, I-9 compliance, internships, retirement plan governance, background checks and application screening, and group health plans.

As a result of this experience, Langevin came to believe that the process of LPM is not some deep dark secret to be mastered by a select few, but rather a systematic and disciplined application of best practices from law firm and business management.

“What LPM is really all about is to have the right people doing the right work at the right time, to increase client value,” said Langevin. “It includes clear communication with clients about what makes up the tasks that a lawyer does. This became an excellent vehicle to get us to talk with our clients about our work, which is something we should be doing anyway. It's a great way to tell clients, ‘Here's what we can predict and control in your matters, and here's what it will cost.’”

Langevin is now an active participant in the firm's monthly LPM Sustainability Initiative meetings. In addition, she asked each of the 12 members of her practice group to come to a recent retreat with at least one concrete idea on how to use legal project management in their practice.

“We are introducing these concepts into the fabric of what we do,” Langevin said. “Perhaps this is somewhat slower than what some aficionados would prefer, but

we want all the attorneys to feel good about it. If we try to shove it down people's throats, it's not going to work."

She does not tell other attorneys at the firm, "Go find a project, then manage it." Rather, she asks them, "What do you do on a regular basis that can help you be more efficient for a client?" "This way, she says, project management "sounds less like a buzzword, and more a matter of simply doing a better job of what we're already doing."

None of these activities are rocket science. The hardest part of LPM is getting lawyers started.

Langevin has changed from a skeptic to a believer, and says that as a result of this experience, "Legal project management has fundamentally changed the way I practice law."

Bilzin Sumberg: Just-in-time coaching

"Legal project management demands a new way of thinking about providing legal services," according to Al Dotson, a member of the Executive Committee at Bilzin Sumberg and the practice group leader of its Government Relations and Land Development Practice Group. "Before I started on our firm's LPM initiative, I approached new client engagements with a simple thought: 'You, the client, have engaged me. My hourly rate is X,' and that was the end of the discussion. Now I approach new engagements more in terms of developing a mutual understanding with the client about the services we will provide, the time it will take, the team required, the budget, and the relevant reporting milestones."

Dotson explained these ideas when I conducted a panel discussion with him, Jon Chassen, and Mitch Widom at Bilzin's annual partner retreat in March 2012. All three partners had just finished a pilot test of LPM coaching. For about three months, each lawyer had selected real world matters to analyze and identified the key issues that were most critical in each situation, using the templates, job aids and checklists in our *Legal Project Management Quick Reference Guide*. Then they reviewed the best practices described in the book and discussed exactly how to apply them to increase client value and protect profitability.

At the retreat, all three reported benefits, but Dotson's remarks got the most attention because his LPM activities had already led to new business in just a few short months. Dotson represents real estate developers and contractors in highly complex matters that involve a series of government regulatory agency approvals, and his developer clients loved the approach because they use project management to run their own businesses. One of them was so impressed by the legal project plan Dotson had produced that he asked Bilzin to take on a significant amount of new work.

The reason Dotson first volunteered for the program was that he “was looking for better ways to organize my work, and to respond to clients’ and prospective clients’ desires for budgets. Clients are looking for a way in which I can describe the work in advance, both in terms of what the cost of the whole engagement will be, and in terms of manageable segments of work.”

Dotson described the LPM coaching he received as “spot-on” in that it helped him organize his complex matters in terms of their component parts, and to plan better for possible contingencies that may occur. “This coaching was far from a theoretical exercise,” he said. “This was a discussion of specific matters that were before me, and how to approach them.”

In weekly telephone sessions of about 30 minutes each, our coach walked Dotson through key problems and issues that he was encountering in his practice, and how best practices from other firms might apply. Dotson then followed up by completing written assignments based on our coaching materials and the existing project management literature.

As Dotson summed it up, “This coaching has been very beneficial to me in client management and in client development. I believe that it applies to all areas of law.”

Bilzin Sumberg is a Florida-based firm of about 100 lawyers with, according to its web page, “A local footprint, a national presence and a global perspective.” As a result of the discussion at the retreat, a number of other partners became interested in discussing how LPM could help them.

All 51 partners were offered the option to complete the same three-month coaching program that Dotson, Chassen, and Widom had received. Eight people signed up right after the retreat. Based on their results, another 14 signed up in September, for a total of 25 partners in the program to date, representing almost half of the firm’s partners.

While we have seen lawyers from many firms make progress on LPM using a variety of approaches, we believe Bilzin Sumberg has made more LPM progress more quickly than any other law firm. The reason is very simple: they have the highest percentage of partners who have made a commitment to an intensive three-month coaching program. (We work with one AmLaw 100 firm that has put more total lawyers through this program, but because they are so much larger, their percentage is lower.)

Many firms have offered one-time training classes to a large number of lawyers, and a few have spent years in intensive re-engineering of business processes. But as far as we have been able to determine, no other firm on the planet has gotten such a large percentage of the partnership actively involved so quickly in making immediate changes that benefit their clients and their business.

The intensive LPM coaching approach works because each lawyer focuses on immediate ways to directly benefit their individual practice. And when it works, they tell their colleagues.

Litigation partner Scott Wagner was one of the first lawyers to volunteer for LPM coaching after the retreat presentation. Although Wagner usually represents defendants in antitrust cases and other types of complex litigation, he is now spending a good deal of his time representing plaintiffs in a huge civil antitrust case pending in the Northern District of California.

Wagner's clients are distributors and purchasers of products containing LCD screens. The background is that manufacturers of LCD screens were criminally charged with price-fixing and some were ultimately convicted. In cases like these, purchasers and others who suffered financial injury from the price-fixing conspiracy often sue the alleged conspirators for damages.

“When I signed up for the LPM coaching, I wanted to think about what I could do to get better in budgeting time and money for each case,” Wagner said. “To some extent, this sounds like simple math, but figuring out the whole universe of tasks isn't easy.”

One good example was accounting for the time that he and his team spent in daily monitoring of the criminal antitrust trial. “This is time that we had to budget, but it is also time that we wouldn't normally think about,” Wagner said. “What my coach helped me to do was to think through, in advance, all the phases of a case, all the possible twists and turns and the directions it can take.”

The result, Wagner said, was that he became much better at “giving the internal team and clients a more realistic estimate of what a case will cost.” He is now able to estimate how much time—and money—a case will require under various assumptions.

In addition, he said, the legal project management process can help plan the staffing of a case. “Perhaps instead of two associates assigned, you may find that you need just one, or maybe three or four.”

“The biggest take-away,” Wagner continued, “is that budgeting is possible. The conventional wisdom is that it is not possible in litigation. But actually, you can come up with a budget that is useful to your client and can lay out all the contingencies to know what the litigation will likely cost.”

These new skills had a significant impact on Wagner's practice after the coaching was concluded. For example, he reported, “In one case, we were approached about a plaintiffs' side antitrust action with a contingency fee arrangement. I was able to use my new budgeting techniques to better project the amount of time and resources it would take for us to see the matter through to completion. This gave

us a much better springboard from which to analyze whether the matter was worth the firm's risk.”

For Alan D. Axelrod, chair of the firm's Corporate and Securities Group, LPM training is all about looking at the law firm as a business. “I think that in the 80s and 90s people didn't look at law firms as businesses, but everyone got a rude awakening in the last few years.

“From a project management viewpoint, you must develop skills to make sure that work is not duplicated. You always needed to get the deal done as quickly and effectively as possible. But now you also have to think about getting the deal done efficiently,” Axelrod said. “There is often a balancing required between the goal of completing it as soon as possible and still being as efficient as possible.”

More and more clients are requesting caps, estimates, and similar fee arrangements for M&A and other transactional work, Axelrod said. “One client whom I had worked with many years ago is now back and growing its business. We just did an M&A deal for them where we carved out the due diligence aspect on an hourly basis and came up with a flat number for all the rest of it, in the form of a cap. If it comes in lower, we told them, ‘We'll bill you for whatever it is.’”

Another transaction he's been working on was cleared by the SEC during the coaching and came in within budget. “In this one, we were aggressive in terms of the fixed fee number that we bid.” Although Bilzin already had committed to the price before the coaching started, the coaching was still useful, and “It was very important to develop the template to help monitor the actual versus projected cost.

“The program was helpful, and as we get more and more experienced with LPM, it will become even more helpful,” Axelrod said.

“The bottom line is the legal business has become so much more competitive—clients are looking for value and recognizing that the required work needs to be correlated with cost. If you don't move with the times, you'll be in trouble. LPM is one of the key tools for keeping up.”

Another lawyer who went through the program was Real Estate Practice Group Leader Jim Shindell, who said, “We have always thought that we need to be efficient, but LPM coaching has given us a much better understanding of how to get there and what interferes with efficiency in a transaction. We were reactive in the past. Now we are becoming more proactive.”

In his weekly 30-minute coaching calls, Shindell said, “We worked on ways to help us manage transactions to be efficient, to price matters more effectively, and to think a project out well ahead of time in order to staff it properly.”

Many of the calls involved looking back at historical transactions (with some of the facts changed to ensure client confidentiality), and re-engineering the transactions to see how they might be done differently if they were new projects.

“We are looking to develop templates to help us identify all the tasks required in advance for any project so that we are not reinventing the wheel every time that we put out a price estimate,” Shindell said.

The idea is “To break each transaction into the smallest possible parts, and then to re-imagine the transaction and all that it requires.”

The resulting templates and checklists offer many benefits to clients, including an early identification of key steps in a transaction. They also offer the best way to predict what transactions will cost, Shindell said, so that no one is making things up by extrapolation or merely using wishful thinking. In time, Bilzin plans to refine the task codes it uses to track costs and analyze the historical record of how long things take under a variety of conditions. But clients can’t wait, and templates and checklists provide a great way of offering more accurate estimates today.

“The idea is to be able to establish meaningful cost estimates, in advance, for our clients in the transactional matters that we handle,” Shindell explained. The process of making a time investment up front through better planning and analysis actually saves time in the long run by permitting the firm to respond quickly and accurately to client requests for quotations.

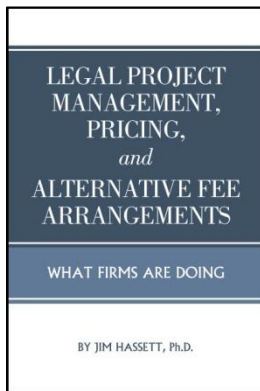
Things move fast in the world of real estate. When a project is ready, the developer wants it to start immediately, and time is money. If we can move quickly with a cost estimate, Shindell said, that is a service both for our clients and for ourselves, and “That is why we are working so hard to develop the firm’s institutional knowledge and collective data base.”

In the current highly competitive environment, Shindell said, “If you’re not able to properly and quickly determine your prospective costs in a matter, you will find yourself losing certain business, or perhaps not even being able to compete for business. And that includes a lot of good, highly sought real estate development business, not just business where the key determinant is price.”

In general, when it comes to LPM, “As a firm we have made significant progress, but we still have a long way to go. The firm’s leaders are squarely behind LPM, and just about everyone thinks it’s a good idea. But it’s a lot easier to say it than to do it.”

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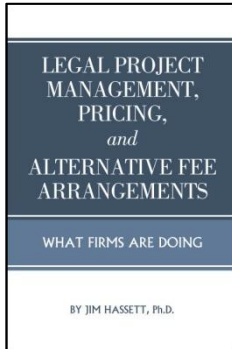
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