



Legal Executive Leadership

Advancing a smarter legal profession.

“Business as (Un)usual”

Re-engineering Legal Professional Training, Development,
and Competency to Remain Relevant to Clients

Hamline Law School | Business Law Institute

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- We're going to blend my two favorite bar junkie topics today: the **new normal** and **lawyer professionalism**.
- **Please interrupt** with questions/comments – I hope you will.
- You'll have these **slides electronically, as well as a bibliography of the articles and sources I'm citing to (with links)**
- This is a dialogue, even if we can't talk together directly today: **contact: +1.301.718.4806 | hackett@lawexecs.com**.
- My background is with **corporate clients and corporate lawyers**, but I hope to make this conversation relevant to individual clients and non-corporate attorneys, as well.

GETTING STARTED



- We will be looking generally at trends and ideas that are changing the way that lawyers work, and what this means to traditional assumptions about legal training, competency, and professionalism:

I do not believe that every concept I pull forward has value for everyone or in every situation ...

... but I hope to spur your thinking about change, and most importantly, about legal and professional RELEVANCE.

GETTING STARTED



Today's topics:

The New Normal: The environment is changing. What are the implications for lawyer professional development?

What kinds of practices are commentators, law schools, law firms and legal departments considering and implementing that change the way lawyers prepare to be professionals, what they do every day to serve clients, and how they will succeed?

How do these changes/practices impact the relevance, competency & professionalism of lawyers?
And how do we implement changes/practices that are not familiar?

GETTING STARTED

Today's topics:

Convergence of professional regulation and lawyers with the reality of client empowerment. For as long as they've been lawyers, we've ruled the game: we create and maintain the power to write the rules, dispense legal services, and regulate the market and practices.

The question is: does it matter anymore? Without clients, we remain kings of our profession, but we lack a kingdom. If we want the kingdom back, we have to find new ways to be relevant, to serve, to organize our services so as to be useful to clients.

We can't wait while professional regulation and development institutions catch up. We need to re-tool AND keep our professional standards. If you don't like change, you'll like irrelevance even less.

GETTING STARTED



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Clients don't have legal problems:

Clients have business problems.

Or personal problems.

So what happens in a competitive and evolving marketplace of service providers when lawyers continue to try to fix clients' business or personal problems without the right tools or training?



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- Clients Question Lawyers' Relevance - And They Question the Value of Legal Professionals

Other providers now offer clients services that were previously provided by lawyers. And they do it well. Usually for less cost and with more quantified results.

Uh, oh.

Do we try to “stop them” by shouting that they’re not professionals like us, or do we think about how each one of us professionals could take a page from their playbook and do better?



The New Normal – “Legal Disruption”

Some “disruptions” in the legal market might be better called “sustaining innovations” – new ways to do the work (better, faster, cheaper) – but preserving the same presumptions about the current process of lawyering.

Other, more fundamental disruptions are underway in the form of market revolutions that could replace lawyers or make the services they currently provide irrelevant. These changes affect the way that clients will solve their problems ...

with or without lawyers.



Discomfort & Disruption...

- The financial downturn accelerated and made more visible a movement that was already building momentum: clients questioning high-priced and inefficient or mis-aligned legal service delivery.
- Many clients are still not fully leveraging the changing market, but the change factors we can measure document exponential, unprecedented, and trending movement that suggest clients aren't going back.
- Get over it. Get used to it. Get in front of it.



Richard Susskind – identified the changes around us:

Traditional Professionalism vs. Relevance

Shifting Marketplace Realities – Globalization, Information,
Technology

Distinguishing Value: High quality lawyers are now fungible

Talent Crisis: lawyers aren't trained to serve clients but to practice law

The commoditization of practice vs. a tradition of “bespoke” service

THE FUTURE RELEVANCE OF LAWYERS



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| The **Evolving** Legal Market |

(Jordan Furlong offers the following analysis)

See **The Evolution of Legal Services** at www.Law21.ca



The profession we knew ...

- Law is a protected industry, self-regulated by lawyers.
- Legal knowledge and the legal system are inaccessible to non-lawyers; law is a black box you need a lawyer to open/navigate.
- Lawyers police their own conduct/eliminate non-lwyr competition.
- Lawyers “compete” with each other in a genteel fashion, rarely undercutting other practitioners.
- Facing no competition and under no pressure to innovate, lawyers create self-serving/inefficient enterprises to deliver legal services.
- Firms inelastically price services based on what they believe their lawyers’ time is worth, not what the work is worth in the market.
- Clients cooperate/enable these behaviors.



The legal marketplace we knew ...

- Lawyer jobs increase proportionately to service demand (which lawyers fuel).
- Most legal services are expensive, and most lawyer careers are comparatively highly remunerative.
- Legal technology is almost entirely “sustaining,” offering more convenient ways of carrying out traditional tasks w/o re-engineering those tasks.
- Legal education is almost entirely academic; practical experience is gained through on-the-job training, often after admission and at clients’ expense.
- Lawyers are often valued based on their pedigree.



Disruption in markets & lawyer roles...

- Economic upheaval, technology & information innovations, and globalization disrupts (and continues to disrupt) the legal market.
- Legal work, formerly indivisible, starts breaking into mission-critical, ordinary and commodity tranches – “unbundling.”
- Multiple new providers enter the legal industry, including alternatives to law firms, and more “do-it-yourself” and non-lawyer service options for clients.
- The burgeoning legal services market offers clients choices of vendors who can provide more affordable “unbundled” services.
- Clients begin to judge talent based on results and efficiency.
- Lawyers have limited regulatory options against emerging competitors, which become legitimized and begin to mature.





Disruption in markets & lawyer roles...

- Prices for lawyers' services fall while lawyers' costs continue to rise; ergo, profitability begins to stall or decline for inefficient providers, even while revenues or rates continue to go up.
- The salary gap widens between top practitioners and "technicians."
- Law firms cut overhead to preserve profits; unemployment rates for new lawyers soar; the pool of unattached legal talent ("free agents") grows.
- Law schools experience pressure: enrollment/tuition/loan concerns, dearth of placements, challenges to practical value of educational model.
- In some jurisdictions, lawyers lose power to regulate the legal market and/or themselves (most notably England & Wales).
- Lawyer jobs, for the most part, do not disappear, but they begin to relocate. Movement, not elimination, of labor.





What's In Process? (Open Market: 2010 – 2024?)

- Multiple legitimate providers now fully active in legal market. Lawyers battling many competitors for market share.
- Displaced lawyers and new generation lawyers who are alienated from traditional legal workplaces begin to push work toward non-traditional/virtual/flexible workplace alternatives.
- Legal knowledge/tools are universally available and adaptable through the internet. The black box becomes transparent.
- Consumer legal services shift from lawyers to non-lawyer or tech providers; many small-firm practices cannot compete & falter.
- A focus on extreme efficiency: systems, analytics, and software take on most paper, process and product work.



What's In Process? (Open Market: 2010 – 2024?)

- Technology/LPOs offer open/cheaper access to high quality teamed work. Clients want lawyers to provide judgment or supervision, not analysis or legwork.
- “Non-lawyers” evolve rapidly to fill in new gaps in the market and serve clients directly; emerging development and enforcement of non-lawyer standards and protocols.
- Competition drives systemic improvements: unbundling, alternative staffing, software, project management, etc.
- Client access to legal services has never been greater. Prices for most services drop - some to true commodity levels (\$0).



What does this mean?

Insourcing by corporate clients

- Hiring more lawyers, pushing work to non-lawyers or clients, more technology applied to legal work, alternative staffing/contract lawyers

Non-law-firm outsourcing by corporate clients

- Sophisticated delivery of routinized services: better results/greater efficiency than most firms offer

Law Firms come in new shapes and sizes, with their own LPOs:

- Firms adopt more nimble business models, value-based service lines

Alternative providers attract individual clients (who are on a budget / who expect a pre-defined result)

- Clients can choose providers who offer solutions they need at a predictable price, using experienced workers, with a guaranteed result



What Clients Want

- Results + Risk Management
- Better management and lean efficiency
 - Certainty / Predictability
 - Costs that equate with value received
- Lawyers who deliver services by engaging in sound and client-facing business practices



What Clients Get

- Lawyers who are expensive and inefficient
- Legal arrogance in reaction to practical needs
- Denial of change
- Refusal to take risks, re-engineer, or innovate
- Reliance on past practices for guidance moving forward
- A lack of demonstrable value
- Inattention to metrics + a belief that data isn't relevant
- Unwillingness to learn or deploy technology
- Lack of respect for “non-lawyer” strengths/contributions



Reluctance to change

Fear of admitting shortcomings/being judged as less

Fear of the unknown / Risk-averse nature

Old habits die hard; it's hard to argue with millionaires

Concerns about professionalism

We're not equipped to compete

WHY DO WE HESITATE TO CHANGE?



Why lawyers must change:

This is not about whether lawyers like change. They don't.

We simply have to understand that clients will get what they need from whomever offers it best – and they have good alternatives.

“- water moves around stones -”



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What do we have to do to get better?

Are there any professional issues we have to navigate?

How are some lawyers implementing change and equipping themselves with new training and skill sets?

THE NEW MISSION AND VISION ...



Mission and Vision

- Mission: to provide what my client needs
- Vision: in the manner that best serves my client.

Align client-directed legal strategies with efficient business operating principles.

[Recognize that the “aligned legal strategy” stuff and the “efficient operating principles” part wasn’t taught at law school or delivered in your law firm training either – because that’s all about clients, not lawyers.]



The Bars, Commentators, Academics are Talking (while the clients are walking)

- It's important to talk and that's how change will eventually come to be. But as a profession, we're anything but nimble.
- Commissions and Reports Underway: ABA Ethics 20/20 studying MJP, global practice, ABS, legal education, legal service providers ...
- All good: but let's talk about the elephant in the room: the "clients" that lawyers purportedly exist to serve.



Law Schools – whose clients are students and the profession:

What do we have to do to get better/more client-facing?

This is not solely an academic exercise: focus on skills

Learn/teach about practice managment/client relations

Focus on how to deliver what clients want

Learn the value-add/don't re-invent the wheel

Get Real Experience: Practice / Apprentice / Volunteer

THE NEW MISSION AND VISION ...



Law Firms: (whose clients include companies & individuals)

What do we have to do to get better/more client facing?

Cultivate diverse, multidisciplinary talent: legal quality is fungible

Connect costs to value to the client, not the firm

Reward efficiency and great results, not an ever larger stack of hours

Scope matters before work begins/assemble a team/train to tasks

Manage workers and projects to schedules, budgets, targeted results

Rely on data, knowledge, and technology: they create better results

Drive constant professional development throughout lawyers' careers

Partner and collaborate with clients and non-lawyer specialists.

THE NEW MISSION AND VISION ...



In-House Counsel: (whose clients are > 95% of organized legal spend)

What do we have to do to get better/more client facing?

Retain firms that can provide what corporate clients want/fire the others

Demand new business models that incent and reward value, not hours

Demand data and work process expertise that drives better legal pricing

Continue the focus on increased diversity at executive levels in cos. and firms

Collaborate with firms in re-training lawyers to develop new skills

Exercise oversight: reward demonstrable value, continuous improvement

Create knowledge initiatives that allow a focus on higher-level services

Continue to push forward risk management and problem avoidance initiatives

THE NEW MISSION AND VISION ...



**Legal Service Providers: (the future - as partners, employers, competitors)
What do we have to do to get better/more client facing?**

Offer products and services that improve efficiency and profitability

Create training modules that help lawyers understand how to use your product or service to its fullest extent – speak S-L-O-W-L-Y.

Help lawyers understand the numbers behind their practices

Create sustaining innovations to do it “better, faster, cheaper”

Harness experience & knowledge so that lawyers can focus on what’s different in each matter, while your systems do what’s the same

Help lawyers collaborate and share what they’re doing

Hire more multidisciplinary talent to work on legal issues since most firms and companies can’t/won’t and their skills are critical

THE NEW MISSION AND VISION ...



The “Nothing’s Normal” legal skill set

- Business and finance for lawyers: basics in accounting, financials, valuation, corporate business cycles, risk assessment, etc.
- Legal pricing: accurately predicting and budgeting work; determining the cost of the work, which can then help us understand the appropriate price, and whether we'll insource the work or pay the appropriate margin of profit for an outside firm or provider to deliver it
- The variety of legal fee structuring options – what works best in a variety of situations/matters, and what is your appetite for sharing or shifting risk?
- Training customized teams that best fit the requirements of the variety of regular or repeating matters or kinds of work in your department; training those teams to deliver just the results the client wants
- Leadership, strategic planning, organizational governance and operations (firm and department)
- Managing behavioral change - developing greater sensitivity to and accommodation of the emotional or personal quotients in the workplace – aka “EQ” skills; revisiting incentives, evaluation, and compensation, and revamping the rewards for the behaviors you want to encourage
- Personal branding: how each lawyer can build and improve on what they are known for delivering – what their distinguishing value is; harnessing social media to develop better lawyers and promote successful practices
- Legal and enterprise risk management: approaching corporate practice with a preventive lens, helping clients and decision makers (such as boards) weigh risk and understand the best balance for the company (avoiding the problem of “legal, but stupid”)
- Approaches to experiential training at every stage of practice (as opposed to classes and “booklearnin’”): secondments, structured mentoring, swaps, benchmarking networks with leading peers, business and executive simulation exercises, moot courts, executive shadowing, etc.
- Legal process management: lean Six Sigma, disaggregation or unbundling of legal tasks, assessment of legal and support roles to insure efficiency, consistency, and cost-savings, continuous improvement efforts, changing the focus to be on results, rather than encouraging lots of billable activity
- Legal project management (LPM): assessing the matter, staffing, budget, and communication plans that govern projects and teams; tracking and communicating plans over the course of the project; integrating technology into the processes
- Measuring performance/establishing metrics; data and analytics that drive better practices and allow for comparative benchmarking
- Assessing client satisfaction and creating client feedback loops that lead to continuous improvement initiatives
- Coordinating multi-national, multi-disciplinary, multi-professional and multi-cultural projects/teams
- Practical legal ethics: situational navigation of entity-threatening crises that arise in any real-time/real-world practice.
- Technology skills: using tech to improve client service and results, manage client demand and offer self-service options, improve practice management
- Interpersonal and Communication skills / how to actively listen / dispute and conflict relationship management / “transacting” with difficult people or delivering (and receiving) difficult messages
- Working as teams (in a profession of cats who don't like to be herded) – delivering team outcomes, understanding how to leverage organizational behaviors and tactics



The “Nothing’s Normal” legal skill set

- Business and finance for lawyers
- Legal pricing: accurately scoping, analyzing, predicting and budgeting work; quantifying cost and profit to determine appropriate price
- Insourcing and Outsourcing: the right horses for the right courses
- Mastery of legal fee structures beyond hours X rates; risk shifting
- Training teams to handle regular/repeating matters or kinds of work
- Leadership, strategic planning, organizational governance and operations
- Managing behavioral change - developing greater sensitivity to and accommodation of the emotional or personal quotients in the workplace – aka “EQ” skills
- Incentives, evaluation, and compensation: revamping the rewards and business models to drive the behaviors you want to encourage



The “Nothing’s Normal” legal skill set

- Legal process management: lean Six Sigma, disaggregation or unbundling of legal tasks, assessment of legal and support roles to insure efficiency, consistency, and cost-savings
- Legal project management (LPM): assessing the matter, staffing, budget, and communication plans that govern projects and teams; tracking and communicating plans over the course of the project; integrating technology into the processes
- Legal and enterprise risk management: (avoiding “legal, but stupid”)
- Experiential training (new disciplines)/lifelong learning at every career stage
- Personal branding – establishing a distinguishing value
- Harnessing social media



The “Nothing’s Normal” legal skill set

- Metrics; data and analytics, comparative benchmarking
- Assessing client satisfaction, evaluating lawyer performance to goals
- Continuous improvement
- Coordinating multi-national, multi-disciplinary, multi-professional and multi-cultural projects/teams
- Practical legal ethics: situational navigation of crises that arise in any real-time/real-world practice
- Technology skills: to improve client service, produce results, manage client demand, offer self-service options, improve practice management
- Interpersonal and Communication skills
- Leveraging organizational behaviors, resources, and tactics



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Are there legal professional issues to consider if we adopt these kinds of new client-facing practices or services?

THE NEW MISSION AND VISION ...



- What makes lawyers professionals? Does following the rules make us professionals or is our service to clients more important?
- What do we do that is unique from others that should be preserved?
- Is our value threatened by change, or by maintaining the status quo?
- What is the practice of law? What is the unauthorized practice of law? Can/should we define either? (Be careful what you wish for...)
- Are questions of professionalism more relevant to clients or lawyers? Do we use professionalism concerns as an excuse to avoid hard changes?

IT DEPENDS ...



Let's talk about the rules:

MRPC 1.1 Lawyer Competence:

A lawyer shall provide competent representation to a client. Competent representation requires legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.



Question:

DOES ANYTHING IN THIS RULE SUGGEST THAT MY PROPOSED IMPROVEMENTS VIOLATE PROFESSIONAL REGULATION OR THE SPIRIT OF PROFESSIONALISM?

ARE WE IMPROVING OR DILUTING COMPETENCE BY BECOMING MORE MULTI-DISCIPLINARY?



Let's talk about the rules:

MRPC 1.5 Fees:

A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

time/labor; opportunity cost; market rate; amount involved/results obtained; time constraints; nature/length of the relationship; experience, reputation and ability of the lawyer; whether the fee is fixed or contingent.

Also – the rule requires that fees be communicated, preferably in writing, before work begins.



Question:

DOES ANYTHING IN THIS RULE SUGGEST THAT MY PROPOSED IMPROVEMENTS VIOLATE PROFESSIONAL REGULATION OR THE SPIRIT OF PROFESSIONALISM?

ARE WE BETTER SERVING CLIENTS BY ADOPTING VALUE-BASED FEE STRUCTURES? OR ARE HOURLY BILLS MORE PROFESSIONAL?



Let's talk about the rules:

5.4 Professional Independence of a Lawyer:

A lawyer shall not share fees with a non-lawyer; a lawyer shall not form a partnership with a non-lawyer; a lawyer shall not practice in an entity in which a non-lawyer owns an interest or directs/controls the professional judgment of a lawyer.



Let's talk about the rules:

Legal Services Act (Launched in 2007/England & Wales)

A public/consumer revolt against the practice of law as traditionally conducted and governed by lawyers.

Solicitor's Regulatory Authority (2007)

Separates the bar from the regulatory agency that governs lawyers so as place more non-lawyers in a position *"to set, promote and secure in the public interest standards of behaviour and professional performance necessary to ensure that clients receive a good service and that the rule of law is upheld."* Many of the reforms have to do with increased access to lawyers / justice, consumer rights, cost controls, and required better business practices.

The rules opened legal practices to financing and ownership that includes non-lawyers – ABS (Alternative Business Structures).



Question:

DOES ANYTHING IN 5.4 SUGGEST THAT MY PROPOSED IMPROVEMENTS VIOLATE PROFESSIONAL REGULATION OR THE SPIRIT OF PROFESSIONALISM?

IS LAWYER PROFESSIONALISM COMPROMISED – OR ENHANCED – WHEN WE WORK SIDE BY SIDE AND IN PARTNERSHIP WITH NON-LAWYERS?



Let's talk about the rules:

MRPC 5.5 Multijurisdictional Practice of Law (MJP); Unauthorized Practice of Law (UPL)

A lawyer shall not practice law in a jurisdiction in violation of the rules of that jurisdiction or assist another in doing so ...

... since the amendments, there are a few exceptions authorizing limited forms of MJP, but only in states that passed amended rule 5.5.

The first rule of every jurisdiction is that you have to be authorized in the jurisdiction in order to practice there – how many jurisdictions does the average lawyer in some way “touch” in her practice every day?

1? 10? 100? We don't even know?



Question:

DOES ANYTHING IN THIS RULE SUGGEST THAT MY PROPOSED IMPROVEMENTS VIOLATE PROFESSIONAL REGULATION OR THE SPIRIT OF PROFESSIONALISM?

IS A LAWYER'S COMPETENCE OR PROFESSIONALISM TIED TO HER PHYSICAL LOCATION, OR TO HER EXPERIENCE AND PROFESSIONAL COMPASS?



Let's talk about the rules:

MRPC 5.7 - Responsibilities Regarding Law-Related Services, and MRPC 5.1, 5.2, and 5.3 –

Supervisory responsibilities of partners/managers, and
responsibilities of subordinate lawyers and non-legal assistants

When lawyers perform work with others, what obligations does the lawyer have for the work of others – whether they be supervisors, supervisees, collaborative partners, team members, etc.? The lawyer must make reasonable efforts to protect client rights and assure that colleagues are living up to the rules. Even non-lawyers.



Question:

DOES ANYTHING IN THIS RULE SUGGEST THAT MY PROPOSED IMPROVEMENTS VIOLATE PROFESSIONAL REGULATION OR THE SPIRIT OF PROFESSIONALISM?

CAN LAWYERS WORK AS A TEAM PURSUANT TO A DELIBERATE PROCESS, OR IS RELIANCE ON THE WORK OF OTHERS A POTENTIAL VIOLATION OF PROFESSIONAL RESPONSIBILITY?



Separate the different issues involved in working as a lawyer on a collaborative team, from questions of liability that law firms and their insurers deal with – That latter concern is not about professionalism, but who's financially responsible if a matter is not well coordinated and a client or other party sues the party responsible for insufficient oversight or errors.

SIDEBAR



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So what's trending?

And what does that mean in terms of individual lawyer, law firm, and corporate legal department practices?



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Staff and Spending Trends

What does this mean?

- Law firms compete with their clients for work.
- “Demand management” is king
- Contract attorneys become virtual staff /free agents
- More non-lawyers are trained to perform tasks previously performed by lawyers

- 66% of law depts will increase their inside budget in 2013
- 50% of law depts expanded staff in 2012. IHC = majority of new hires, providing direct services to clients.
- In 2010, 28% of legal leaders said they would use more contract lawyers; by 2012, the number had grown to 66%.
- In 2010, 12% of legal leaders said they would outsource work to non-law firms; by 2012, the number was 46%.



Staff and Spending Trends

What does this mean?

- Increasing demand for cost controls and cost reductions, specialized staffing, law firms with ops and related service centers to provide more efficiency services, use of LPOs on the rise

- 58% of large law dept budgets is spent on outside provider expenses.
- While 90% of IHC say they closely scrutinize firm bills, 71% have no review policies or no data to assess performance.
- 59% of law depts now use AFAs to make fees more predictable.
- > 60% of top US firms use an outside service center to handle routine work.
- Global LPO market revenue:
 - in 2011: \$640-million;
 - in 2014: \$4-billion (with a “B”)
 - [85% CAGR (compounded annual growth rate)]



Staff and Spending Trends

What does this mean?

- Matter mgmt
- E-discovery and document work
- Knowledge-based practices
- Process & Project Management improvements
- Data Analytics

- > 50% of firms report having profitability data available at the client level, practice group level, and matter level, but only 5% give themselves a high score on its use.
- 26% of the largest law firms in 2010 said they were commoditizing legal work. By 2012, 84% were engaged in the practice.
- A majority of AmLaw 200 hired a pricing director in the last 18 months; most are not lawyers.
- When surveyed re priorities, legal technologists all pointed to virtual / mobile / sharing tech as top of mind: they are focused on collaboration practices.



Staff and Spending Trends

Citing from: (reference links)

- ACC - Association of Corporate Counsel 2012 Chief Legal Officer Survey (pub 1/2013): <http://www.acc.com/legalresources/resource.cfm?show=1327148> (executive summary available for free download; full survey must be purchased)
- ALM's 2012 Law Department Metrics Benchmarking Survey: http://www.law.com/corporatecounsel/PubArticleCC.jsp?id=1202578084293&The_Big_Squeeze&slreturn=20121105075742
- Altman Weil 2012 Law Firms in Transition Flash Survey: www.altmanweil.com/dir_docs/resource/1667e5c8-b99e-4557-93ac-73174118ea29_document.pdf
- HBR 2012 Law Department Survey: <http://www.marketwatch.com/story/legal-spending-returns-to-2009-survey-levels-according-to-2012-hbr-law-department-survey-2012-09-27?siteid=nbkh>
- ALM/Corporate Counsel Magazine: Agenda 2012: General Counsel Issues: January 2, 2012: <http://www.law.com/jsp/cc/PubArticleCC.jsp?id=1324247055495> (click the internal link in the article for the charts)



The Shift from Activity to Outcome

What does this mean?

- Proactive & strategic coordination, rather than reactive counseling
- Big/small data analysis
- New focus on “holistic” service delivery
- Streamlining: budget & project management across work flows
- Law firm convergence

- Steady increase in % of depts & firms with a separate KM function:
 - 40% in 2008
 - 46% in 2010
 - 50% in 2012
- 100% of those using legal project management report tangible benefits; 62% link it to a more productive relationship between firm & client.
- Collecting and sharing client data is the top task for a fast growing number of service vendors



Shifting From Activity to Outcome

What does this mean?

- Increasing focus on non-legal business skills and mgmt techniques
- Focus shifts from rates to costs; emphasis on budgets and staffing
- Data/Knowledge Mgmt.
- Unbundling work to assess/attach values to each process
- Law firm profitability stems from efficiency (not high revenue or longer hours);

- Fastest growing segment of legal educational programming – business skills for lawyers
- Law dept. leaders cite “procurement” as the department outside of legal with whom they are most regularly interfacing.
- More law departments rank the priority of establishing effective legal metrics a a greater concern than the priority of upgrading corp compliance programs.
- Top criteria for hiring firms = efficiency (trumping rates, reputation, and expertise)
- Lean legal process and project management skills listed as top skills for law department executive managers



Before:



After:



Partner Time
Associate Time
Paralegal Time

Morgan Lewis:

Six Sigma Legal Services for Mortgage Loans



Shifting From Activity to Outcome

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- ACC - Association of Corporate Counsel 2012 Chief Legal Officer Survey (pub 1/2013): <http://www.acc.com/legalresources/resource.cfm?show=1327148> (executive summary available for free download; full survey must be purchased)
- ALM's 2012 Law Department Metrics Benchmarking Survey: http://www.law.com/corporatecounsel/PubArticleCC.jsp?id=1202578084293&The_Big_Squeeze&slreturn=20121105075742
- HBR 2012 Law Department Survey: <http://www.marketwatch.com/story/legal-spending-returns-to-2009-survey-levels-according-to-2012-hbr-law-department-survey-2012-09-27?siteid=nbkh>
- ALM Legal Intelligence: Legal Project Mangement: Many promises, many hurdles": <http://www.almlegalintel.com/SurveyDescription.aspx?id=xSm7KzduNUc=&type=fEFglaD+grg=> (ALM survey available for purchase, but widely discussed by Jim Hassett in his LPM blog at: http://adverselling.typepad.com/how_law_firms_sell/2012/09/new-legal-project-management-survey-provides-data-on-the-best-way-to-make-progress.html)
- ILTA Whitepaper: Knowledge Management Survey Findings 2012: <http://read.uberflip.com/i/68817/4>



So how will we make these changes? One at a time.

There may be differences in how these changes take root in practices of all kind, but most of these changes, for most lawyers, are not a question of “if,” but “when and how much.”

This is not weird science.

These ideas are good for clients, even if they’re hard for lawyers, and are based on common sense and sound business practices, previously absent from law.



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Changing the tires on the bus...



(... while it's moving.)



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Benchmarking (AKA: “Yes, you can”)

Looking at law school, law department, vendor or firm attempts to leverage new market realities or practical improvements in the way lawyers work.

Each requires extensive lawyer re-tooling, ongoing training in non-legal subjects, and continuous evaluation and improvement cycles. These lawyers have changed their behaviors and the way that they work.

None of this was on anyone’s agenda or curriculum 5-10 years ago.



Prudential Financial – re-tooling lawyers for new roles/responsibilities

Recognition that lawyers are great at law, but don't have the skills or vision to manage or implement the value-based agenda that the client needs.

- Intensive training in: lean process mgmt; legal project mgmt; budgeting, pricing & fee structures; data analytics; knowledge-based resources; predictive data; automated work product options
- Focus on connecting compensation, evaluation, and performance to new value-based goals
- Career stage competency/ productivity-based planning and “pathing” for each lawyer and for teams, as well. Life-long learning; a focus on successive succession planning.



RiverviewLaw & ClearSpire: law firms offering a new and different business model

- Work is performed according to a loose playbook and process that outlines how routine elements of the representation should be performed time over time; lawyers exercise independent judgment for “outlier” issues that require different handling.
- High emphasis on training so as to create consistency.
- Early case assessment and budgets/project management are key elements in every firm/client relationship.
- Each matter has a set price for service attached – it’s now the responsibility of the firm to complete the tasks and deliver the solution to the client within the price quoted.
- There is no “pushing down” legal work: the team has been chosen and is compensated to provide services at the level that the firm prices its work.
- Technology and data are integral parts of each project and lawyers are trained to make the most of their use.

Small businesses and an increasing number of large companies are coming to firms like this because they offer similar lawyering to the most expensive firms, but:

- At a predictable cost
- With a quantifiable result
- With a pre-set and pre-trained team with whom a relationship can be developed and institutional knowledge created.



3M's Outside Firm Convergence - Value-Based Criteria

Hundreds of firms being converged so that 80+% of legal spend will be billed by fewer than 15 firms:

- Current firms will compete for slots, but the company is holding some slots for bids by value-based firms who offer new approaches/experiments
- RFP process switches the primary focus to “how” the firms will provide service, not “who” the firm is or their bids at a particular price or rate.

Total focus on Value Based Service Delivery: requiring firms to demonstrate new staffing, financial, pricing and data analytical skills, lean process management techniques, customized KM systems



Law Schools Changing the Way they Prep Lawyers for Practice

- Looking at two-year curriculum, plus experiential training: NYU Law
 - Michigan State University's novel program – “Re-Invent Law” – which teaches legal analytics and process, rather than just caselaw.
 - Hamline University's clinical requirements, offering the practical skill experiences that gets students hired/providing client value sooner.
 - Harvard's collaborative degree programs with graduate business schools on campus.
- Focusing on: teaching students the practical skills they need to represent clients from day 1.
 - The ability to “Think like a lawyer” is no longer more important than the ability to “Get a job and then get the job done” ... more efficiently and effectively ... and in a client-focused manner.
 - Preparing students for a wider array of legal service options/careers.



VIACOM – global team collaboration

Global media company with many divisions & business lines – and separate counsel & teams for each...

- Establishing better internal communications platforms; cross-company reporting governance, by subject as well as by division
- Developing /sharing knowledge-based expertise
- Coordinating outside counsel retention standards and evaluation processes
- Cross-referencing data on costs, strategies, results; studying comparatives; issuing cross company group reports to management
- Adopting strategies for cross-group coordinatn



Firms profit by serving clients w/ knowledge-based processes ...

SeyfarthLean Approach and Tools

- Most firm lawyers engage in extensive (months long) trainings in Lean Six Sigma process and project management
- Data-driven decision making
- Process mapping
- Online client services
- Knowledge management
- Continuous improvement

Firm Awards Include:

- COLPM Innovaction Award 2012
- 2012 ACC Value Champion
- BTI's 2012 Top Tier Service Firm
- FT's 2011 Most Innovative Lawyers (US)

SeyfarthLean Value

- Clear understanding of client needs and desired outcomes
- Consistent, high-quality legal services (measured/guaranteed)
- Increased efficiency
- Improved communication and collaboration
- Right-sized staffing approaches
- Committed to transparent pricing
- **15-50% reduction in overall cost of services**

<http://www.seyfarth.com/SeyfarthLean>





Departments establishing knowledge-based efficiencies ...

Cisco Legal's Global Center of Excellence (GCOE)

Enables the law department to flexibly and rapidly handle matters by moving it to GCOE professionals, who can handle the work based on urgency, more nimbly, and at lower cost.

Using an in-house outsourcing model, Cisco restored (in the first year) more than 19,000 hours of productivity to the rest of the in-house legal team and handled approximately 4,000 transactions—all with very high satisfaction marks.

- Defined activities/transaction types that can be handled in the GCOE
- Submitters assign urgency levels: < 2 hrs; 24 hrs; 2-3 days; 1 wk
- 26 legal professionals, including lawyers, within the GCOE; 8 locations around the world: San Jose, CA, Lawrenceville, GA, Ireland, The Netherlands, Eastern Europe and India
- Technology platform that includes a centralized intake queue and online tools and playbooks to guide GCOE professionals



Firms profit by serving clients w/ knowledge-based staffing ...

Eversheds Agile

“Our own commitment to innovation and to challenging the industry norms underpins everything we do and informs our strategy, vision and values.

Innovation at Eversheds is a year-round mission, part of the day-to-day fabric of the firm. Through constant revision of our service to clients and our management of our own business, and through our own revolutionary approach, we strive to push for further transformation in the legal sector.”

“A key challenge facing many businesses today is how best to maintain staffing in their teams at optimum levels.”

Working closely with clients, Eversheds Agile is a client service that brings together the flexibility of short term staffing and legal resources, with the quality professionals who add value to the client organization.

Eversheds Agile recognized:

- Most Innovative European Law Firm by Financial Times

<http://www.evershedsagile.co.uk/>





FMC Technologies – Jeff Carr - ACES

ACES and 1 Degree Law

Underlying principle: achieve service relationships based on partnering and sharing risks and rewards.

- Two versions: ACES (for non-litigation legal services) and ACES LT (for litigation services)

- Key features of ACES:

- Aligns interests of firms with the FMC

Technologies legal team's interests

- Creates a system that allows the firms to make more money per hour while FMC Technologies buys fewer hours (e.g., increases both the firm's per hour profitability and frees up their inventory of hours to sell to another customer.

- 100% AFAs
- Holdbacks create incentives to efficiency and to driving results
- Evaluation and “hot wash” conversations integrated into the course of the relationship – drives continuous improvement and allows replication of good practices and elimination of bad ones.
- Department compares firms' performance rates and uses that info to drive poor performers up or out.





Assuring client service + compliance via process improvements

Intel's Dynamic Demand Management Approach

“We wanted to propel our lawyering to a higher level – in terms of quality, efficiency and lawyer development ... we created online tools so that business attorneys and clients can find everything they routinely need to do their jobs, and time spent on mundane and repetitive work could be minimized.”

- Unique online resources that promote both compliance and client “self service” options are housed on a wiki, developed/maintained by legal team members
 - Resources include 24 playbooks used by Intel lawyers and corporate employees who can work more seamlessly and with greater consistency to deliver solutions to common problems.
 - Proof of Concept Discussion groups – questions posted on Facebook-style pages are answered communally and shared, as well as archived.
 - Client engagement is encouraged with online trainings, quizzes, Social-Text “cocktail parties”
- <http://www.legalexecutiveleadership.com/resources-networks>





Kia Motors – “Basic Tech Skill” Audits

Casey Flaherty decided to audit the tech skills of associates performing basic chores for his client and billing by the hour for them ...

- #Fail! – basic functions that could be accomplished in 30 minutes took as much as 8+ hours of billable time to complete because associates didn't understand or deploy basic document technologies.
- Casey's point: lawyers – associates and partners – in firms are not trained to perform services efficiently and firms are riffing staff who can.

The underlying question: who should be doing that work, and how should they be trained to do it both more efficiently and effectively?



Legal Executive Leadership

Advancing a smarter legal profession.

| Thanks |
for including me in your meeting!

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