

7 Emerging Trends that Could Change How You Manage Your Firm

By Eric Dewey

January, 2012

Law firms are growing increasingly fragile as they react to a variety of changes in the marketplace. Eric Dewey looks at how firms are reacting in order to remain competitive in this tougher environment.

Law firms are undergoing significant changes and are growing increasingly fragile. This will necessitate a new way of operating and doing business.

The following chart describes some of the more significant changes either occurring today or expected to occur over the near term followed by an explanation of each shift from old to new and the implications this is having on law firms.

Several factors have driven the changes to the law firm business model.

- A steep increase in the quality and quantity of information and communication regarding firm performance for both clients and law firms
- A significant shift in pricing power from law firms to clients
- Intensified rivalry driven by virtual, 24/7 access to lawyers, legal services and information through the Internet
- Improved professional management of law firms
- Heightened involvement of company non-lawyers in legal decisions (purchasing departments, project managers, CFOs, HR, Engineers, Consultants, etc.)
- Improved law firm marketing which is driving a decline in the relative cost of marketing and an improvement in sales efficiency
- Shifting demographics, aging leaders and an increasing emphasis (particularly amongst younger lawyers) on traditional work/ life balance and brass ring models of succession.
- A significant growth in alternatives (providers, ownership models, payments and channels) and alternative uses of existing services such as in-house counsel using plaintiff's lawyers to convey their intent to go to trial.

Law Practice TODAY

THE MONTHLY WEBZINE OF THE ABA LAW PRACTICE MANAGEMENT SECTION

OLD Emphasis	NEW Emphasis
Horizontal Market Success	Vertical Market Success
Rainmaker and Cross Selling	Account Management and Brokering
Consensus Firm Management	Centralized Firm Management
Hourly Pricing Model	Bifurcated Pricing Model
Associate Leverage	Free Agent Leverage
Market Share Management	Revenue Source Management
Point of Contact Client Satisfaction	Multiple Points of Contact Company Satisfaction

These forces are changing the strategic emphasis of progressive law firms.

A New Emphasis on Vertical Success

In the old model, firms compete for horizontal success. They built up a dizzying array of practice areas and sold them as a full service, one stop offering of legal services growing broad but shallow in the process. But clients are increasingly savvy in comparing offerings and are beginning to combine services from different providers to accomplish their goals. Clients look for the best value solution which features both deep experience and unparalleled value. To compete, firms are improving their management of these practice groups which, in turn, is leading to better systems and information. As these systems mature, firms will improve their ability to reduce waste and improve process efficiency. The combined forces of improved selection by clients and improved value and profitability by firms will bring a new emphasis on specialization and vertical success.

A New Emphasis on Brokering

The legal market place continues to fragment. Specialization offers deep expertise now in just about any legal or operational area. As such, companies have more alternatives for handling their legal needs and are combining services from multiple sources to get the best total solution. Even within a specific case, e-discovery is handled by one provider, the trial portion by another firm, litigation support a third and the routine legal work by still another. The specialization trends, the emergence of highly efficient

service providers in niche areas of legal services and steeply improving access to a growing quality and quantity of information are driving this brokering trend. It will lead to more firms which aggregate the best of the best into a customized solution to client needs.

From a sales standpoint, this brokering will evolve into a sales strategy that acknowledges (in compensation and otherwise) a lead practice in which the 'account manager' attorney is embedded with the company and brokers the legal services for the client as the needs change. This requires strong working knowledge of the various areas of the client's business much as an account manager partners with the various business lines of the business and acts as a consultant to identify the best service for the client. But this brokering will also include the best services selected from rival firms and service providers breaking down their portions of the work down to specific tasks or phases of the matter. Compensation systems, as a result, will move away from an emphasis on new client acquisition and toward an emphasis on existing client expansion.

A New Emphasis on Management Decision-making

The old law firm model was big, unyielding and unresponsive to client needs. It moved slowly and took months to make relatively easy decisions. Today, flexibility and nimbleness are the order of the day which is leading to a streamlining of the decision process. Committees and subcommittees, once common features of law firms, are falling away. Management by committee is slowly giving way to professional management of firms and more authority given to the attorney leaders of the firm. The benefits are leading to faster decisions, more responsive service and more customized service delivery solutions.

A New Emphasis on Bi-furcated Pricing

There was a point in time not too long ago when a discussion of pricing was a discussion of discounts. The industry had a single pricing model for ever product (practice) and everyone understood how it worked and how to evaluate value.

Today, that discussion is evolving in two directions- one toward fixed fee pricing and the second continuing in the hourly pricing model. Some work, even whole practice areas, will lend themselves to fixed fee arrangements while others, or specific tasks within others, are more suitable as hourly arrangements. This is leading to a bifurcated pricing model.

Due to the increasingly routine and predictable nature of a large swath of legal work, it is reasonable to predict that most work will likely end up charged as some form of fixed, predictable fee arrangement. Sophisticated, newly emerging or unpredictable types of work with high strategic importance to the client will continue to be charged on an hourly basis.

In fact, most legal work has elements of both types of tasks in the work. Matters will be priced routinely with both fixed and hourly arrangements in the next few years.

A New Emphasis on Free Agent Leverage

The old firm model recruits newly minted lawyers to serve as the apprentice work horses of the firm. As they step up the stairs of experience they become increasingly profitable for many firms. But the training period is under siege from clients unwilling to subsidize the learning curve of young lawyers. Combine this with the difficulty in forecasting legal work and scaling the size of a practice quickly and you have a situation in which greater flexibility can be achieved by relying on 'free agents' (contract attorneys, outsourced services and other temporary sources of production). With the availability of legal talent resulting from the great recession, the cost of free agency is quite low and makes a lot of sense.

Clients too are responding to free agent use. Some companies are using plaintiff's lawyers on large scale, bet the ranch cases to convey their commitment to going to trial. They are carving out specific tasks within a case or matter to specialists and supplementing in-house staffs with contract attorneys or part time attorneys.

A New Emphasis on Revenue Source Analysis

As profitability is squeezed, analysis of the various sources of revenue will become more important. Those sources include not only the relative profit of certain types of work, but the profits derived from a broad variety of sources of work including referral sources, ancillary sources, alternative channels and alternative partnerships. In addition, as firms broker outside services on behalf of their clients, the relative profits of these services will be examined more carefully.

A New Emphasis on Total Company Satisfaction

For years, keeping a company's business was primarily driven by the satisfaction of the general counsel or key contact at the company. But today, people in more areas of the business are weighing in on, not only on the choice of which firm, but how that firm works with the company. Purchasing departments, business line managers, accountants and engineers are having more say about how the legal needs of the company are being met. In addition, more aspects of the law firm's performance are being evaluated than simply the quality of the legal work. In short, the focus is shifting from one-to-one client satisfaction to total solution company satisfaction.

These are predictions. If the trend toward non-attorney ownership in law firms takes hold in the U.S., many of these trends may evolve much more quickly. Regardless, the emergence of new firms and service providers built on new pricing models and more efficient processes is having a lasting impact on an industry that has remained largely unchanged for decades.