

# PUBLICATION

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## The Art and Science of Legal Project Management

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*Allen W. Nelson and David A. Rueff, The National Law Journal*

Legal Project Management has emerged as a method for lawyers and clients to collaborate on the design of legal representation with the goal of obtaining a more predictable result, both as to outcome and legal spend. Some see it as an art closely related to the traditional field of project management, while others see it as a science, supported by technology. Is legal project management an art, a science or a combination of both?

Legal project management has been used by attorneys, legal consultants and vendors to describe methods that can control the inherent variables in any type of legal engagement. In law firms, it is a best practice for strategically planning the administration of a matter or group of matters. For in-house legal teams, it may describe improved departmental management practices. For contract counsel and electronic-discovery vendors, the term may describe a more methodical approach to providing services that have a high risk of costs for a client.

But what is it really? What is at the heart of this process that has evolved to encapsulate good business practices in a variety of legal service contexts?

In the book, "The Power of Legal Project Management, A Practical Guide," published by the American Bar Association in February 2014, legal project management is defined as follows: "(1) a proactive, disciplined approach to managing legal work that involves defining, planning, budgeting, executing and evaluating a legal matter; (2) the application of specific knowledge, skills, tools and techniques to achieve project objectives (the client's and law firm/legal department's); and (3) the use of effective communication to set and meet objectives and expectations." Lambreth and Rueff, ABA (February 2014).

Several early-adopter law firms have developed their own techniques for implementing legal project management. One example is Baker Donelson's BakerManage process, which includes tools to help a lawyer improve matter management practices at the outset (in the "development phase" using a statement of work, a budget and a communication plan), during the management of the matter (in the "execution phase" using best practices to closely monitor performance) and at the end of the matter (the "closure phase" conducting a close out meeting with the client).

The concepts within models like BakerManage are an evolution of attorney-client relationship standards that have always been a part of the practice of law. The ABA Model Rules of Professional Conduct, which serve as the foundation for many state legal ethics standards, provide guidance on issues such as scoping, budgets and communications. The ABA Model Rules require a lawyer to confirm the scope of the engagement in writing, especially with regard to limitations on the scope of the representation. Model Rule 1.0, 1.2 and 1.5. The ABA Model Rules address communication and require a lawyer to keep the client reasonably informed. Model Rule 1.4. The rules also require the lawyer to consider several factors when developing a fee such as the time and labor required, what is customarily charged for similar matters and any time limitations necessitated by the matter. Model Rule 1.5.

Given that background, one might wonder why legal project management only now is rising to the surface as a tool for lawyers and clients. Hourly billing has been the predominant method of charging for legal services for decades. In 2001, the ABA recognized that hourly billing may promote the following problems: client solutions lacking sufficient planning; rewarding inefficiency and lack of productivity; management practices resulting in rework and duplication of effort; legal costs that don't reflect value and that cannot be determined until matter closure; and rate differentials failing to account for actual experience and productivity. *The Power of Legal Project Management, A Practical Guide*, Lambreth and Rueff, ABA (February 2014) (citing the ABA Commission on Billable Hours Report 10 (2001 – 2002)).

The ABA report also acknowledged in 2001 that the billable hour "perpetuates the lack of emphasis on project management in law firms." It has taken the industry more than 12 years to recognize that legal project management can help improve the delivery of legal services even under the billable hour. Understanding whether this is an art or a science is the logical next step toward integrating these concepts into the practice of law.

### **Art or Science?**

Is legal project management a science? As law firms struggle with the implementation of legal project management, many are realizing the need for a methodical, step-by-step approach that can make it easier for lawyers to integrate these techniques into their daily routines. This is where the "science" must be applied.

Historically, many lawyers have drawn on their own memory to clarify expectations with a client or to develop a budget. Likewise, clients may be unfamiliar with what should be communicated to their lawyer regarding the matter. This results in knowledge gaps and a fundamental lack of understanding of the range of issues relevant to matter strategy and cost estimation. The use of legal project management tools such as client interview templates, stakeholder registers, budget forms and communication plans can help lawyers ensure they are gathering as much information as possible at the beginning of a matter to promote overall success.

Legal project management is also a science because it promotes capturing data and historical information. As law firms attempt to provide more accurate budgets or evaluate the use of alternative pricing mechanisms, many are realizing the value of capturing more detailed information about how the matter was managed. This can be accomplished through the use of phase-and-task code billing that can be reconciled against the original budget. It can also be accomplished through the matter-closeout process by capturing team experiences before they are forgotten.

Is legal project management an art? Legal project management has been described by some as re-engineering of the practice of law or the way lawyers, clients and vendors interact and exchange information in a matter. Although standard methods and forms can facilitate the integration of legal project management into a lawyer's practice, it requires much more than the use of checklists. The techniques must be learned, absorbed and integrated into a lawyer's day-to-day activities.

A perfect example of the art of legal project management arises in the budgeting for a matter. One of an in-house lawyer's greatest fears is a billing surprise. This typically occurs when an outside lawyer provides a price estimate based upon intuition rather than an evaluation of the actual time and effort that will be required. This can also occur when the outside lawyer prepares an estimate solely based upon a pro forma budget for earlier matters. The objective of legal project management is to develop a realistic estimate based upon the lawyer's experience and a thorough evaluation of the work to be performed, the resources to be used and the time required to manage each phase of the matter. It also involves a review of historical information related to similar matters, to identify trends and potential issues.

Accordingly, legal project management is not just about plugging numbers into a calculator. Two of the most common causes of unexpected legal expenses are a change in scope and a failure to clarify strategy with the client before responding. Legal project management is an art, because the lawyers must draw upon their legal training and experience to communicate potential risks. The lawyers must also recognize and communicate when the original scope changes. In these situations, an immediate conversation with the client should occur to confirm expectations and provide the client with an opportunity to make business decisions before work is performed.

Understanding that legal project management is both a science and an art is the first step toward a successful implementation. The scientific components are promoted by the development of detailed interview questions, template project plans and form budgets at the practice level, and the collection of historical data. The artistic components can be promoted through comprehensive training of lawyers and support personnel.

Due to the pervasive use of the billable hour and the management practices it encourages, a single training session per individual may not be sufficient to result in change. The chances of success are dramatically increased, however, if your implementation plan accommodates both the art and science of legal project management.

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