

Finding the “Win-Win” in the Law Firm-Client Relationship

by Charles A. Maddock

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In the early 1990s, the relationship between buyers of legal services and outside counsel took a dramatic turn. That’s when DuPont rolled out its seminal Legal Model. By reducing its roster of outside counsel by almost 90%, DuPont found that it could control outside and in-house legal costs by securing significant discounts in return for volume and by reducing the size of its legal staff needed to manage so many law firms. Soon, other corporations followed suit. And law firms that were often less than receptive to client requests quickly recognized that a strategic market shift—characteristic of a matured market with an oversupply of providers—was taking place. From now on, the client would be firmly in the driver’s seat.

“In the 1990s, our business units were decentralized and the attorneys were generally free to work with any number of qualified outside law firms. Recognizing the expense and duplication of effort that goes with that process, the legal department significantly reduced and consolidated the number of law firms and centralized the overall management of them.”

—*Kenneth Bunge, Former Managing Attorney, United Technologies Corporation*

Another recent element of this shift has been the change from paper invoicing to Electronic Billing, or eBilling. Although some corporations, such as GE, have had proprietary eBilling systems for years, publicly available eBilling systems did not take hold in major corporations until about five years ago. It is estimated that as many as 25% of corporations with major outside counsel relationships will be using eBilling by the year 2010.

“Every quarter we are asked to prepare accounts for the billing we expect to come in against quarterly and annual budgets. Electronic billing has made this so much easier. Rather than pulling invoices, we just run the eBilling reports and we know how much we have spent to date against budget.”

—*James W. Elrod, Corporate Secretary and General Counsel,
King Pharmaceuticals Inc.*

Although eBilling provides benefits to both corporate counsel and their law firms, there have been some glitches. Choosing the right system from an array of more than twenty providers can be daunting. And since there is no industry standard, some law firms find themselves learning and using ten or more “solutions.”

While the benefits of eBilling have yet to be fully realized, it is clear that eBilling calls for more detailed billing and regular communication between client and law firm.

“Clients expect much greater detail and time breakdowns, particularly when we’re working with them on an hourly basis.”

—*Alistair Mitchell, COO, Linklaters [UK]*

"Clients' billing needs have increased dramatically since the days of manual billing seven or eight years ago. Currently, 25% of our clients are using eBilling. That means learning and partially paying for eight to ten different eBilling solutions. This can be a real burden to a law firm and adds costs at a time when clients are particularly concerned about cost."

—*Kathy Deuschle, Controller of Operations, Orrick, Herrington & Sutcliffe LLP*

Some lawyers complain of a loss of trust in the relationship between corporate counsel and their outside law firm. But if eBilling is successful, it will help build credibility and strengthen the bond between outside counsel and their clients, creating a true win-win for both sides. In fact, the motivation for eBilling is not just about the obvious financial transaction but also about the less obvious role of managing the law firm-client relationship.

“Clients want to feel that the time recorded has added value to the relationship. To do so, the time needs to be accurate and detailed since the demands for accuracy and detail from clients has increased. Clients are much more concerned with the cost of all their service providers, including lawyers. Task-based billing codes were one of the first steps in controlling costs and there have been many since then.”

—*Gillian Turner, Director of Finance, Manatt, Phelps & Phillips, LLP*

So what is at stake? Research conducted by Altman Weil in association with LexisNexis Martindale-Hubbell shows that the consolidation trend pioneered by DuPont is continuing—all of the corporate counsel interviewed for this study confirmed this—which means that law firms will have to deliver even more value for the same or reduced rates.

In the *2007 Chief Legal Officer Survey*, 48% of general counsel said that they had fired or would fire at least one of their law firms in the coming year. While many firms enjoy a healthy relationship with their major clients, they recognize the pressures of doing business today means that this relationship is always under scrutiny and open to re-assessment by their clients. Law firms need to recognize the strategic role of eBilling and how it can be used to enhance communication with the client.

“Clients and the firm both have interest in attorneys capturing their own time accurately.”

—*Gillian Turner, Director of Finance, Manatt, Phelps & Phillips, LLP*

Perhaps this is exactly the right environment in which the leading law firms can find a way to distinguish themselves.

It's About Time

Since law firm clients expect both the accurate and timely delivery of electronic bills, the law firm must in turn ensure accurate and timely capture of time activity to support the eBill. In addition, the law firms' clients are mandating standard classification codes (UTBMS) so that eBill invoices can easily be compared to client billing expectations.

"Electronic billing very quickly teaches lawyers who enter the information what the dos and don'ts are. It doesn't take more than one month of rejections for an outside law firm to recognize what your parameters are. They should know not to bill you ten hours in a row. After the first couple of months we were on eBilling the number of bills we rejected dropped dramatically."

*--James W. Elrod, Corporate Secretary and General Counsel,
King Pharmaceuticals Inc.*

Contemporaneous, accurate and detailed timekeeping is critically important for both law firms and buyers of legal services. On the corporate side, general counsel are often called upon by their corporate boards to review and optimize use of external services. As such, corporate counsel need to be armed with detailed, accurate and timely spending information on their law firms. The better the information they have on hand, the better they are able to defend their decisions to partner with external counsel on particular matters.

"We required our preferred counsel to use eBilling. There were some initial concerns, but it became clear that there were benefits to both sides. It allowed us to track time expended and total costs of projects while gradually streamlining the billing process by our outside firms."

—Kenneth Bunge, Former Managing Attorney, United Technologies Corporation

Among law firms, one AmLaw 50 firm interviewed for this study estimated that one tenth of a timekeeper's billable time is lost if time is not recorded until the end day or next day; four hours are lost if time is not recorded until the end of the week; and 15 hours are lost if time is not recorded until the end of the month. At a minimum, this could mean an additional 170 to 200 hours per year are lost. Multiply that lost utilization by the firm's average rate and we're talking real money.

At the same time, there is a paradox in the legal industry: law firm growth and success depends upon profitability, while corporate counsel are under continuing pressure to reduce outside legal costs. Keeping accurate time records increases law firms' realization (and thus, profitability) without additional time burden for lawyers. And clients expect accurate timekeeping that can be easily and readily accessed and reviewed.

While eBilling has been making inroads on the legal landscape, time capture systems have changed little in the last 20 years—as evidenced by the still pervasive paper timesheet. Most of these traditional systems lend themselves to *after the event* capture, sometimes by as much as 30 days. It seems reasonable to imagine that a law firm that sticks with its paper-based system, when compared to the newer, more transparent, and more detailed electronic systems, may eventually experience adverse affects in their relationships with clients.

The Win-Win

New technologies that improve the time capture process have surfaced in recent years as a direct result of the growing acceptance of eBilling. These technologies claim to better address the timeliness and accuracy of time capture and are focused on the attorney as the participant. One—Time Builder—creates time entries from journaled activities (e-mails, telephone calls, etc.) previously performed by the attorneys, to act as memory triggers and potential time entries.

Another—TimeKM—encourages attorney participation in the capture of time spent on work as it is being performed (i.e., contemporaneous capture) either at their desktop or on the road away from the office.

The detailed capture offered by these technologies allows law firms to improve communication with their clients. The shift to eBilling encourages *at-time-of-event* capture to ensure sufficient detail and accuracy which is reflected through the eBill. As such, intelligent tracking systems will help attorneys save time in the capture process while providing for detailed capture and custom eBilling to each client.

“It puts us in a position to respond more quickly to clients. Our expectation is that timekeeping technology will add approximately 10% per day of accurately recorded time. So if an attorney bills seven hours a day, he will be able to accurately bill 7.7 hours per day at no additional work effort. This, of course, goes right to the firm's bottom line.”

—Kathy Deuschle, Controller of Operations, Orrick, Herrington & Sutcliffe LLP

The advantages of moving quickly to provide eBilling as a means of securing the client relationship are obvious. As only a select number of firms are added to the corporate counsel's available suppliers list, those law firms that can provide their clients with meaningful information through the simplicity and power of eBilling will have an advantage. Most top firms have already started to embrace the move to electronic invoicing and intelligent time tracking systems and are adapting their internal processes and technologies as a direct result.

Clearly this trend is here to stay.

About the author

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